

APPLICATION FOR COMMERCIAL CREDIT 30 DAY TRADING ACCOUNT

Referred By:

Date:



To: **AKD TIMBER TRADING PTY LTD ACN 623 057 429 of 7-15 Forest Street, Colac Vic 3250 and any subsidiary or associated entity ("AKD")**

I/We the Customer named below ("I/we" and "me/us") agree, declare and acknowledge that:

- If this Application for Commercial Credit ("**Application**") is accepted by AKD, all the provisions of the application (including the General Credit Terms and any annexure or schedule) and AKD's Terms and Conditions of Sale ("**Terms of Sale**") will be binding on me/us.
- I/We have been given and have read and understood the Terms of Sale prior to completing this Application.
- AKD recommended that I/we should seek independent legal advice prior to completing this Application and I/we confirm that I/we have sought such independent legal advice prior to execution or waived the opportunity to do so.
- AKD recommended that each guarantor should seek independent legal advice prior to execution of the Deed of Guarantee and Indemnity and each guarantor has sought such independent legal advice prior to execution or waived the opportunity to do so.

CUSTOMER (please BLOCK print)

Are you a: (tick):	<input type="checkbox"/> Sole Trader	<input type="checkbox"/> Partnership	<input type="checkbox"/> Private Co. (Pty Ltd)	<input type="checkbox"/> Public Co. (Ltd)	<input type="checkbox"/> Trust (or Trustee for a Trust)
Registered Name:					
Trading Name:					
If a Trust, name of Trustee:					
Registered Address:					
ACN:		ABN:			
Postal Address:					Post Code:
Business Address:					Post Code:
Telephone (Bus):	()	Mobile:		Facsimile:	()

CUSTOMER CONTACT DETAILS

Purchasing Contact:				Email:	
Telephone:	()	Mobile:		Facsimile:	()
Accounts Payable Contact:				Email:	
Telephone:	()	Mobile:		Facsimile:	()

DECLARATION FOR THE NATIONAL CREDIT CODE:

I/We (including all directors and all beneficiaries of the Trust (if applicable)) declare that the credit to be provided to me/us by AKD is to be applied wholly or predominately for:

- business and/or investment purposes; and
- other than investment in residential property.

IMPORTANT

You should **only** sign this declaration if this loan is wholly or predominantly for:

business purposes; or

investment purposes other than investment in residential property.

By signing this declaration, you may **lose** your protection under the National Credit Code.

By signing this application, I/We (including all directors and all beneficiaries of the Trust (if applicable)) declare that the credit to be provided to me/us by AKD is to be applied wholly or predominately for business purposes or investment purposes other than investment in residential property.

PRIVACY AND COLLECTION NOTICE (APP 5)

AKD's Privacy Policy contains information about how AKD handles personal information (including personal information collected via its website) and complies with its obligations under the Privacy Act and the Australian Privacy Principles (**APPs**). AKD must take reasonable steps, before or at the time it collects personal information, to notify you of certain matters or to ensure that you are aware of certain matters. Those matters are set out in AKD's Collection Notice (APP 5) and include:

- How AKD collects your personal information and purposes for which AKD collects that information.
- The kinds of third parties AKD may collect your personal information from, such as suppliers, agents, credit reporting bodies, and trade referees.
- Who AKD may disclose your personal information to, such as professional advisors, debt collectors, credit reporting bodies.
- That AKD is not likely to disclose your personal information to an overseas recipient.
- How you can complain about a breach of the Privacy Act or APPs and how AKD will deal with such a complaint (as set out in AKD's Privacy Policy).
- How you can request access to and/or correction of your personal information (as set out in AKD's Privacy Policy).
- The main consequences if AKD cannot collect your personal information such as may be not be able to process this Application, grant credit terms to you, or provide an appropriate level of service to you.

AKD's Collection Notice (APP 5) and Privacy Policy are published on AKD's website at www.akd.com.au/customer.php. Copies can also be obtained in an alternative form (such as hard copy) and free of charge by contacting AKD'S Privacy Officer on (03) 5231 9100.

CREDIT REPORTING AND STATEMENT OF NOTIFIABLE MATTERS

AKD's Credit Reporting Policy contains information about credit reporting, including how AKD manages the credit-related personal information it obtains from credit reporting bodies (CRBs) and how it manages other types of credit-related personal information. For the purpose of this application, **credit-related personal information** has the meaning given to that term in the *Privacy (Credit Reporting) Code 2014 (Version 1.2)* (Cth). Under the Privacy Act and Credit Reporting Privacy Code there are several matters that AKD is required to notify you of at or before it collects personal information that is likely to be disclosed to a CRB. Those matters are set out in AKD's Statement of Notifiable Matters and include:

- That a CRB may include credit-related personal information in reports provided to other credit providers to assist them in assessing your credit worthiness
- How you can obtain a copy of AKD's Credit Reporting Policy
- Your right to access credit-related personal information from AKD, to request AKD to correct the information, and/or to make a complaint (as set out in AKD's Credit Reporting Policy) including how AKD will deal with a complaint
- That if you commit a serious credit infringement, AKD may be entitled to disclose that infringement to a CRB
- That AKD is not likely to disclose your credit-related personal information to entities that do not have an Australian link
- Your right to request that a CRB not use or disclose your credit-related personal information in certain situations
- Information about the identities of the CRBs that AKD deals with and is likely to disclose your credit-related personal information to
- How you can obtain a copy of the CRBs' credit reporting policy

AKD's Statement of Notifiable Matters and Credit Reporting Policy are published on AKD's website at www.akd.com.au/customer.php. Copies can also be obtained in an alternative form (such as hard copy) and free of charge by contacting AKD's Privacy Officer on (03) 5231 9100.

I/We (including all directors) give the following consents and authorisations for so long as AKD provides credit to me/us:

(a) For AKD to collect, use, hold and disclose personal information and credit-related personal information about me/us as described in AKD's Collection Notice and Statement of Notifiable Matters;

(b) For AKD to request credit reports containing credit-related personal information about my/our consumer and/or commercial credit arrangements from CRBs for the purpose of assessing this application, my suitability as a guarantor, and/or in connection with any related purpose or the attached Guarantee and Indemnity and/or from time to time as reasonably required and for CRBs to provide that information;

(c) For AKD to disclose personal information and/or credit-related personal information about me/us to CRBs to enable CRBs to create and maintain records containing credit-related personal information about me/us;

(d) For AKD to disclose to any related bodies corporate of AKD and/or any agents of AKD and/or any of my/our current or potential guarantors and/or any other current or potential provider of credit to me/us, for the purposes set out in this application and/or AKD's Credit Reporting Policy:-

- credit reports containing credit-related personal information about me/us;
- personal information and/or credit-related personal information about

me/us that is derived from credit reports obtained from CRBs;

- any other information about my/our consumer credit and/or commercial credit arrangements.

(e) For AKD to collect personal information and/or credit-related personal information about me/us from any entity to which I/we have granted security (including my/our bank or financial institution) for

the purposes set out in this application and/or in AKD's Credit Reporting Policy and for those institutions to disclose personal information and/or credit-related personal information about me/us to AKD; and

(f) For AKD to exchange my/our credit-related personal information with any collection agents of AKD and/or any of AKD's related bodies corporate and/or any current or potential provider of credit to me/us for the purposes set out in this application and/or AKD's Credit Reporting Policy.

I/We (including all directors) understand that the information permitted to be disclosed to or by AKD under the Privacy Act will include:

(a) Details to identify me/us - that is, name, sex, date of birth, current / last known and 2 previous addresses, current or last known employer, and driver's license number;

(b) The fact that I/we have applied for credit, the amount of the credit, and/or that AKD is a current provider of credit to me/us;

(c) Advice that payments previously notified as unpaid are no longer overdue;

(d) Payments of \$150 or more overdue for at least 60 days and for which collection action has started;

(e) In specified circumstances, that in the opinion of AKD I/we have committed a serious credit infringement; and

(f) The fact that credit provided to me/us by AKD has been paid or otherwise discharged.

I/we give these acknowledgments, consents and agreements for the benefit of AKD and for any CRB, other credit provider or financial institution that AKD discloses my/our personal information or credit-related personal information to or receives such information from.

1. APPLICATION:

Upon AKD allowing me/us to trade on credit, I/we agree, declare and acknowledge that AKD's Terms of Sale apply to all my/our dealings with AKD and I/we hereby agree to comply with the Terms of Sale.

I/We further acknowledge that if I am/we are a corporation, provision of credit pursuant to this application may be subject to and conditional upon all of my/our directors executing the attached Guarantee and Indemnity.

2.	ESTIMATED MONTHLY PURCHASES	\$
	REQUESTED LIMIT	\$

3. REPRESENTATION WARRANTY AND ACKNOWLEDGEMENT:

I/We **HEREBY REPRESENT AND WARRANT** that the information set out in this application is true and correct **AND ACKNOWLEDGE** that AKD will rely upon the information provided and is hereby induced to grant credit to me/us.

FULL NAMES AND ADDRESSES OF DIRECTORS, PARTNERS AND SOLE TRADERS (please BLOCK print)

Each director authorises and consents to requests for credit reports as detailed on the previous page

1.	Full Name:		Telephone:	()
	Date of Birth:		Driver's Licence:	
	Residential Address:			
	Residence: (tick)	<input type="checkbox"/> Own <input type="checkbox"/> Renting <input type="checkbox"/> Mortgage To:		
	Spouse Full Name:			
2.	Full Name:		Telephone:	()
	Date of Birth:		Driver's Licence:	
	Residential Address:			
	Residence: (tick)	<input type="checkbox"/> Own <input type="checkbox"/> Renting <input type="checkbox"/> Mortgage To:		
	Spouse Full Name:			
3.	Full Name:		Telephone:	()
	Date of Birth:		Driver's Licence:	
	Residential Address:			
	Residence: (tick)	<input type="checkbox"/> Own <input type="checkbox"/> Renting <input type="checkbox"/> Mortgage To:		
	Spouse Full Name:			
4.	Full Name:		Telephone:	()
	Date of Birth:		Driver's Licence:	
	Residential Address:			
	Residence: (tick)	<input type="checkbox"/> Own <input type="checkbox"/> Renting <input type="checkbox"/> Mortgage To:		
	Spouse Full Name:			

Bank:		Branch:		Account No:	
Type of Business:				How long established?	
How long have the current proprietors (shareholder(s), partners and sole traders) and directors (if any) been proprietors and/or directors?		Company/Builders Licence No:			
Name of any Related or Subsidiary Companies or Partnerships:					
Are the Business Premises Owned or Leased?					
Would the applicant be willing to produce on request copies of their latest balance sheet and profit and loss statement for perusal?	<input type="checkbox"/> Yes <input type="checkbox"/> No				
Have any of the applicants, directors or proprietors previously been declared bankrupt, entered into an insolvency agreement, or been involved in a Company which has been insolvent, liquidated or placed into any form of external administration?					

Please attach financial records to support this application.

TRADE REFERENCES - Monthly equal to requested credit limit.

1.	Previous Supplier:		Fax No:		Phone No:		Email:	
2.			Fax No:		Phone No:		Email	
3.			Fax No:		Phone No:		Email	
4.			Fax No:		Phone No:		Email	

GENERAL CREDIT TERMS

1. **Payment:** The Customer must pay for all Products and services supplied by AKD within 30 days after the end of the month of supply or within any longer credit period agreed in writing by AKD.
2. **Interest:** AKD is entitled to charge the Customer interest on amounts not paid within the credit period specified by AKD at a rate equivalent to 2% more than the business overdraft commercial interest rate of AKD's principal bankers per annum from the due date for payment until the payment of the debt.
3. **GST:** Each amount payable by the Customer under these Credit Terms in respect of a Taxable Supply by AKD is a GST exclusive amount and on receipt of a tax invoice the Customer must, in addition to that amount and at the same time, pay the GST payable in respect of that supply. "Taxable Supply" and "GST" have the meanings set out in the A New Tax System (Goods and Products and services) Act 1999 (Cth).
4. **Withdrawal or Variation of Credit:** AKD may at any time, without the need to provide a reason, vary or withdraw any credit granted to the Customer. Where the Customer completes a further Application for Commercial Credit, that Application will not be in derogation of but in addition to any previous general credit terms existing except as notified by AKD in writing. Nothing in these terms and condition is a commitment to provide product / services.
5. **Charge over Customer's Property:**
 - (a) As security for payment to AKD of all moneys payable by the Customer under these Credit Terms and for the performance of the Customer's obligations under these Credit Terms, the Customer grants in favour of AKD a Security Interest over the whole of the Customer's present and after acquired property of the Customer (including, where the Customer is a trustee of any trust, the present and after acquired property of that trust). The Customer irrevocably appoints each Officer as the Customer's attorney to do all things necessary to register such Security Interest.
 - (b) Upon demand by AKD, the Customer agrees to immediately execute a mortgage or other instrument in terms satisfactory to AKD to further secure payment of the money payable by the Customer under these Credit Terms and the performance of the Customer's obligations under these Credit Terms. If the Customer fails within a reasonable time of such demand to execute such mortgage or other instrument, then the Customer acknowledges that AKD may execute such mortgage or other instrument as the Customer's attorney pursuant to the appointment of AKD as the Customer's attorney set out in these Credit Terms.
6. **Suspension or Ceasing of Supply:**

If an Event of Default occurs, AKD may, without prejudice to AKD's other rights, make a demand moneys owed to AKD by the Customer, retain all moneys paid on account, or cease further deliveries and recover from the Customer all loss of profits and other costs arising from the Event of Default and/or take immediate possession of any products and services for which payment remains outstanding.
7. **Liability of AKD:** AKD will not be liable for any loss or damage whatsoever suffered by the Customer as a result of any act, omission or statement made by AKD, AKD's employees, contractors or agents, except that nothing in these Credit Terms limits any liability imposed by any statute unless or to the extent that it is lawful to do so.
8. **Certification:** A statement signed by an Officer certifying the amount of any moneys payable by the Customer, or identifying any products and services, as being "unpaid for" is prima facie evidence of the matters to which they relate and binding on the Customer.
9. **Notification of Change of Details:** The Customer must provide written notice to AKD of any change in the Customer's structure or management, including any change of director, shareholder, partnership, trusteeship or address within 7 days of the change.
10. **Continuing Guarantee:** All guarantees under or related to these Credit Terms will be continuing guarantees and will terminate only after AKD notifies the Customer that all moneys owing by the Customer have been repaid and all obligations owing by the Customer have been discharged.
11. **Set-Off:**
 - (a) AKD may at any time set-off amounts owed by AKD to the Customer against amounts owed by the Customer to AKD.
 - (b) AKD agrees to notify the Customer after it exercises any right of set-off under clause 11(a) unless an Event of Default has occurred.
12. **Property:**
 - (a) Where Products are to be supplied by way of sale title in the Products shall not pass until the Customer has paid all money owing to AKD under these Credit Terms in full. Risk in the Products passes to the Customer at the time of delivery.
 - (b) The Customer holds the Products as fiduciary bailee and agent for AKD and must keep the Products physically separate from all other goods of the Customer, and clearly identified as owned by AKD:
 - (i) where the Products are supplied on hire, at all times; and
 - (ii) where the Product is supplied by way of sale, at all times until payment of all moneys owed by the Customer to AKD under these Credit Terms has been paid.
 - (c) If an Event of Default occurs, then without prejudice to AKD's other rights, AKD may on reasonable notice to the Customer enter any premises occupied by the Customer or any other place where AKD has a reasonable belief that the Products may be located and recover possession of the Products and the Customer must procure entry where the premises are not owned by the Customer.
 - (d) If the Customer sells any of the Products supplied by way of sale while money is owed to AKD under these Credit Terms, the Customer must keep the proceeds of the sale in a separate account on trust for AKD and not mix them with any other funds.
 - (e) The Customer must not sell or otherwise dispose of any Products supplied on hire or things (including land or structure) to which the Products have been affixed without first obtaining the written consent of AKD. If in breach of this condition the Customer sells any of the Products supplied on hire then, without prejudice to AKD's other rights, the Customer must keep the proceeds of the sale in a separate account on trust for AKD and not mix them with any other funds.
 - (f) If the Customer uses the Products in some manufacturing or construction process of its own or of some third party, then the Customer shall hold such part of the proceeds of such manufacturing or construction process as relates to such Products in a separate account on trust for AKD. Such part shall be deemed to equal in dollar terms the amount owing by the Customer to AKD and at the time of payment of such proceeds the Customer's obligation to pay the amount owed for such Products will be discharged.
 - (g) If the Products are resold, or goods and services using the Products are manufactured and resold by the Customer, the Customer holds all of the book debts owed in respect of such sales and proceeds of such sales in a separate account on trust for AKD. Such part of the book debts and proceeds will be deemed to equal in dollar terms the amount owed by the Customer to AKD at the time of the receipt of such book debts. The Customer must not assign or grant a security interest in respect of such book debts without AKD's prior written consent.
13. **PPSA**
 - (a) In consideration of AKD supplying the Products to the Customer at the request of the Customer, the Customer by signing these Credit terms:
 - (i) grants to AKD a "Purchase Money Security Interest" ("PMSI") in all Products supplied by AKD to the Customer from time to time as security for payment of the purchase price of the Products;
 - (ii) grants to AKD a "Security Interest" ("SI") in all Products supplied by AKD to the Customer from time to time as security for payment of any other amount owed by the Customer to AKD and as security for the performance by the Customer of the obligations set out in these Credit Terms;

- (iii) agrees that any Products or proceeds of sale of the Products coming into existence after the date of these Credit Terms will come into existence subject to the PMSI and SI granted herein and these Credit Terms without the need for any further action or agreement by any party;
 - (iv) acknowledges that the Customer has received valuable consideration from AKD and agrees that it is sufficient;
 - (v) agrees that the PMSI and SI has attached to all Products supplied now or in the future by AKD to the Customer and that the attachment of the PMSI has in no way been deferred or postponed.
- (b) AKD reserves the right to register a financing statement on the Personal Properties Securities Register to perfect the PMSI and/or SI created under these Credit Terms.
 - (c) The costs of registering a financing statement or a financing change statement can be charged to the Customer by AKD at AKD's complete discretion, and may, where applicable, be charged to the Customer's credit account with AKD.
 - (d) The Customer must promptly, on request by AKD, execute all documents and do anything else reasonably required by AKD to ensure that the PMSI and SI created under these Credit Terms constitutes a perfected security interest.
 - (e) The Customer must not agree to allow any person to register a financing statement over any of the Products in which AKD has any PMSI and/or SI without the prior written consent of AKD and will immediately notify AKD if the Customer becomes aware of any person or entity taking steps to register a financing statement in relation to any of the Products.
 - (f) The Customer must not allow the Products to become accessions or commingled with other goods unless AKD has first perfected any PMSI or SI that AKD has in relation to the Products.
 - (g) If AKD perfects any PMSI and/or SI that AKD has in relation to the Products, the Customer must not do anything that results in AKD having less than the security or priority granted by the PPSA that AKD assumed at the time of perfection, subject only to the rights of a mortgagee pursuant to a registered mortgage to which AKD has consented.
 - (h) The Customer irrevocably grants to AKD the right to enter upon the Customer's property or premises, on reasonable notice if AKD has cause to exercise any of AKD's rights under Chapter 4 of the PPSA, and the Customer must procure entry where the premises are not owned by the Customer and indemnifies AKD for any claims made by any third party as a result of such exercise.
 - (i) The Customer acknowledges and agrees that: -
 - (i) Nothing in sections 125, 132(3)(d), 142 and 143 of the PPSA will apply to these Credit Terms;
 - (ii) The Security Agreement created by these Terms of Sale may only be reinstated on the terms considered appropriate by AKD at its complete discretion.
 - (j) The Customer acknowledges and agrees that to the full extent permitted by law and mentioned below, the following provisions of the PPSA will not apply to the enforcement of any PMSI and SI created under these Credit Terms, and the Customer waives its right to: -
 - (i) not have goods damaged or be inconvenienced no more than necessarily incidental if AKD removes an accession under s.92 PPSA;
 - (ii) receive notice of any intention to remove an accession under s.95(1)(a);
 - (iii) apply to the Court for an order postponing the removal of the "accession" or to determine the amount payable to AKD for the retention of the accession under s.97 PPSA
 - (iv) receive notice of a decision to enforce the security interest in personal property in the same way as an interest in land which secures the same obligation under s.118(1)(b)(i) PPSA;
 - (v) receive notice of the enforcement of liquid assets under s.121(4) PPSA
 - (vi) receive notice of any proposal to dispose of collateral under s.130(1)(a) PPSA;
 - (vii) receive a Statement of Account if no disposal under s.132(4) PPSA; and
 - (viii) receive notice of any proposal to retain collateral under s.135(1)(a) PPSA; and
 - (ix) receive notice of a verification statement in relation to any registration event (including registration of a financing statement or a financing change statement) relating to the PMSI and SI created under these Credit Terms under s.157 PPSA.
- 14. Effect of Other Terms:** These Credit Terms are in no way affected or amended by any other express or implied terms contained in any terms of sale in relation to the Products and services. No terms of the Customer apply to any agreement between the Customer and AKD.
- 15. Expenses:** The Customer must pay to AKD reasonable costs, charges and expenses (including all stamp duty and legal fees and costs and debt recovery expenses on a full indemnity basis as a liquidated debt) incurred by AKD in connection with the entry into these Credit Terms, the exercise or attempted exercise of any power, right or remedy under these Credit Terms and/or the failure of the Customer to comply with these Credit Terms.
- 16. Service of Notices and Documents:** All notices or documents required to be given to AKD for the purposes of the PPSA must be given in accordance with the PPSA. Any notices or documents required to be given by AKD to the Customer for the purposes of the PPSA or for any other purposes will be effectively 'given', 'served' and 'delivered' if sent by AKD to the Customer by pre-paid ordinary post to any one of the following addresses: -
- (a) the last address for the Customer known to AKD;
 - (b) if the Customer is a Company, the registered office or principal place of business; or
 - (c) if the Customer trades under a registered business name, any address contained on a current business extract for that business name.
- 17. Transactions:** The Customer will be liable for all transactions and expenses involving the Customer's credit account including any fraudulent use of the account by the Customer or any person authorised by the Customer to use the Customer's credit account or the Customer's employees, agents or contractors. The Customer will also be liable for any fraudulent use of the Customer's credit account which is directly or indirectly caused or contributed to by the Customer's negligence.
- 18. Application of Monies Received:** If AKD receives or recovers money in respect of a debt of the Customer, AKD may use the money to pay off whichever debt or part of a debt AKD chooses and is not compelled to apply the money as directed by the Customer or any other person.
- 19. Indemnity:** The Customer indemnifies AKD in relation to any direct or indirect loss, liability or damage suffered by AKD or any other person as a result of the Customer's negligence or breach of these Credit Terms.
- 20. Trusts:** These Credit Terms bind the Customer both personally and as trustee of any trusts of which the Customer is trustee.
- 21. Joint and Several:** If the Customer consists of more than one person, the obligations of each person are joint and several.
- 22. Severance:** Each clause, subclause and part of these Credit Terms is separate and independent. If any clause or subclause or part is found to be invalid or ineffective, the other clauses or subclauses or parts will not be adversely affected.
- 23. Waiver:** Any waiver by AKD under these Credit Terms must be in writing. In the event that AKD elects not to exercise any of AKD's rights arising in connection with these Credit Terms, AKD's election will not constitute a waiver of any rights relating to any other breach of these Credit Terms.
- 24. Amendments:** These Credit Terms may only be amended by AKD and the Customer in writing.
- 25. Assignment:** The Customer may not assign any agreement under these Credit Terms without AKD's prior written consent.
- 26. Application of Laws:** These Credit Terms are governed by the laws of the state of Victoria. The Customer submits to and consents to the central Courts of Victoria having jurisdiction over these Credit Terms.
- 27. Definitions:** In these Credit Terms unless the context requires otherwise:
- (a) "**Credit Terms**" means these General Credit Terms.
 - (b) "**Credit-related information**" includes "credit information", "credit reporting information", "credit eligibility information" and/or "regulated information" (as the context permits) within the meaning of those terms in the Privacy Act.

- (c) **"Customer"** means the customer whose details appear in the Application for Commercial Credit;
- (d) **"Event of Default"** means any of the following events:
- (i) the Customer fails to pay for any Products and services and/or the Customer breaches these Credit Terms;
 - (ii) the Customer ceases or threatens to cease carrying on business;
 - (iii) if the Customer is a company: an order is made or a resolution is effectively passed for winding up of the Customer, or the Customer resolves to appoint a receiver or provisional liquidator or an administrator, or a receiver or provisional liquidator or an administrator is appointed, or the Customer goes into liquidation or makes an assignment or an arrangement or composition with the Customer's creditor, or the Customer stops payment or is deemed unable to pay the Customer's debts within the meaning of the Corporations Act 2001 (Cth); if the Customer is a natural person: an order is made for the Customer's bankruptcy, or the Customer dies or becomes mentally or physically incapable of managing his or her affairs, or an order is applied for or made to place the assets and affairs of the Customer under administration;
- (e) **"Officer"** means each director, secretary, credit manager and authorised representative of AKD;
- (f) **"PPSA"** means Personal Property Securities Act (Cth) 2009;
- (g) **"Privacy Act"** means the *Privacy Act 1988 (Cth)* as amended from time to time;
- (h) **"Products and services"** includes all products and services supplied by AKD to the Customer; and
- (i) **"Financing statement"**, **"financing change statement"**, **"security interest"**, **"purchase money security interest"**, **"attached"**, **"attachment"**, **"perfected"**, **"accession"**, **"commingled"** and all related terms have the meaning given to them by the PPSA.

28. Interpretation:

- (a) In these Credit Terms, unless the context requires otherwise, all references to a party include the party's successors and permitted assigns.
- (b) No provision of these Credit Terms will be construed adversely against a party solely because the party was responsible for drafting the provision.

I/We agree to be bound by the General Credit Terms set out above and by the terms set out in this Application and warrant that the information given by me/us in this application is true and accurate and warrant I/we have disclosed all information relevant to this Application.

I/We understand that I/we need not give any of the personal information requested in this Application. However without this information it may not be possible for AKD to process this Application or provide me/us with an appropriate level of service. By signing this application I/We authorise AKD to collect, hold, use, and disclose my/our personal information in the manner set out in this Application and/or AKD's Privacy Policy and Credit Reporting Policy (as may be amended from time to time). I/We acknowledge having read and understood AKD's Privacy Policy and Credit Reporting Policy and that I/we am/are aware that copies of those policies are available on AKD's website at www.akd.com.au or in an alternative form and free of charge from AKD's Privacy Officer upon request.

Name:		Position:	
Signature:	(Signed for and on behalf of the Customer)		Date: / /
Witness Name:		Witness Signature:	
Witness Address:			

Name:		Position:	
Signature:	(Signed for and on behalf of the Customer)		Date: / /
Witness Name:		Witness Signature:	
Witness Address:			

Name:		Position:	
Signature:	(Signed for and on behalf of the Customer)		Date: / /
Witness Name:		Witness Signature:	
Witness Address:			

Name:		Position:	
Signature:	(Signed for and on behalf of the Customer)		Date: / /
Witness Name:		Witness Signature:	
Witness Address:			

GUARANTEE AND INDEMNITY

In consideration of AKD agreeing at the request of the Customer named in the Application for Commercial Credit of which this Guarantee forms part to sell goods and services or give credit to the Customer, each person named as guarantor in the Schedule ("**Guarantor**") enters into this Guarantee in favour of AKD in the following terms:

1. **Guarantee**

The Guarantor unconditionally and irrevocably guarantees to AKD the due and punctual payment of the Guaranteed Monies and agrees:

- (a) on demand from time to time to pay an amount equal to the Guaranteed Monies then due and payable;
- (b) any statement signed by an Officer certifying the amount of Guaranteed Monies, or the money owing by the Guarantor under the Guarantee, is prima facie evidence of the matters to which they relate and binding and conclusive on and against the Guarantor;
- (c) this Guarantee is a continuing guarantee and remains in full force and effect until all the Guaranteed Monies are paid or satisfied in full and is in addition to, and not prejudiced or affected by any other security or guarantee held by AKD for the payment of Guaranteed Monies;
- (d) the liabilities of the Guarantor and the rights of AKD under this Guarantee are not affected by anything which might otherwise affect such liabilities and rights at law or in equity;
- (e) if any payment by the Guarantor under this Guarantee or the Customer is avoided, set aside, ordered to be refunded or reduced rendered unenforceable by any laws relating to bankruptcy, insolvency or liquidation, that payment will be taken not to have been made and AKD is entitled to recover from the Guarantor the value of that payment as if that payment had never been made and this clause continues after this Guarantee is discharged; and
- (f) AKD may enforce this Guarantee without first having resort to any other guarantee or security in relation to the Guaranteed Monies.

2. **Warranty**

Each Guarantor warrants that all the information set out in this Guarantee is true and correct and the Guarantor has disclosed to AKD all information relevant to this Guarantee.

3. **Indemnity**

As a separate and independent obligation, the Guarantor indemnifies AKD from and against any claim, action, loss, damage, liability and reasonable cost, expense, outgoing or payment suffered, paid or incurred by AKD in relation to the non payment or non recovery of the Guaranteed Monies. AKD need not incur any expense or make any payment before enforcing any right of indemnity.

4. **Notification of Change of Details**

The Guarantor will promptly provide written notice to AKD of any change in the Guarantor's details set out in this Guarantee or the Application for Commercial Credit.

5. **Waiver**

Any waiver by AKD under this Guarantee must be in writing. No failure or delay by AKD to exercise any power, right or remedy under this Guarantee operates as a waiver, nor does any single or partial exercise of any power, right or remedy preclude any other or further exercise of that power, right or remedy. AKD's rights and remedies under this Guarantee are in addition to any rights and remedies arising at law.

6. **Claim in Administration**

Until this Guarantee is released by AKD, the Guarantor will not without AKD's consent, prove in any Administration of the Customer in competition with AKD or any related body corporate of AKD.

7. **Continuing Guarantee**

All guarantees will be continuing guarantees and will terminate only with AKD's written agreement. AKD will release the Guarantor from its obligations under this Guarantee promptly upon request if no Guaranteed Monies is outstanding.

8. **Application of Monies Received**

If AKD receives or recovers money in respect of debts of the Customer or anyone else, AKD may use the money to pay off whichever part of those debts AKD chooses and does not have to apply the money for the Guarantor's benefit.

9. **Charge and Security Interest**

As security for payment to AKD of all moneys payable by the Guarantor and for the Guarantor's obligations generally under this Guarantee, the Guarantor charges in favour of AKD the whole of the Guarantor's undertaking, property and assets (including without limitation all of the Guarantor's interests, both legal and beneficial, in freehold and leasehold land) both current and later acquired. The Guarantor irrevocably appoints each Officer as the Guarantor's attorney to do all things necessary to create and register each such charge. Upon demand by AKD, the Guarantor agrees to immediately execute a mortgage or other instrument in terms satisfactory to AKD to further secure payment of the money payable by the Guarantor. If the Guarantor fails within a reasonable time of such demand to execute such mortgage or other instrument, then the Guarantor acknowledges that AKD may execute such mortgage or other instrument as the Guarantor's attorney pursuant to the appointment of AKD as the Guarantor's attorney set out in this Guarantee.

10. **Personal Property and Securities Act (Cth) 2009 ("PPSA")**

Expressions used in this clause in quotation marks have the meaning prescribed to them in the PPSA.

As security for payment to AKD of all moneys payable by the Guarantor and for the Guarantor's obligations generally under this Guarantee, the Guarantor grants a "security interest" in favour of AKD over all of the Guarantor's "personal property" both current and later acquired.

The Guarantor consents to AKD registering a "financing statement" in the Personal Properties Securities Register to perfect the "security interest" created under this Guarantee. The Guarantor must promptly, on request by AKD, execute all documents and do anything else reasonably required by AKD to ensure that the "security interest" created under this Guarantee constitutes a "perfected" "security interest".

The Guarantor acknowledges and agrees that: -

- (a) Nothing in sections 125, 132(3)(d), 142 and 143 of the PPSA will apply to this Guarantee;
- (b) The "Security Agreement" created by this Guarantee may be reinstated on the terms considered appropriate by AKD at its complete discretion.

The Guarantor acknowledges and agrees that to the full extent permitted by law and mentioned below, the following provisions of the PPSA will not apply to the enforcement of the "security interest" created under this Guarantee, and the Guarantor waives its right to: -

- (a) not have goods damaged or be inconvenienced no more than necessarily incidental if AKD removes an "accession" under s.92 PPSA;
- (b) to receive notice of any intention to remove an "accession" under s.95(1)(a);
- (c) to apply to the Court for an order postponing the removal of the "accession" or to determine the amount payable to AKD for the retention of the "accession" under s.97 PPSA
- (d) to receive notice of a decision to enforce the "security interest" in "personal property" in the same way as an interest in land which secures the same obligation under s.118(1)(b)(i) PPSA;
- (e) to receive notice of the enforcement of liquid assets under s.121(4) PPSA
- (f) to receive notice of any proposal to dispose of collateral under s.130(1)(a) PPSA; (g) to receive a Statement of Account if no disposal under s.132(4) PPSA; and
- (h) to receive notice of any proposal to retain collateral under s.135(1)(a) PPSA; and
- (i) to receive notice of a "verification statement" in relation to any "registration event" (including registration of a "financing statement" or a "financing change statement") relating to the "security interest" created under this Guarantee under s.157 PPSA.

11. Trusts

This document binds the Guarantor both personally and as trustee of any trust of which the Guarantor is a trustee.

12. Set Off

- (a) AKD may at any time set-off amounts owed by AKD to the Guarantor against amounts owed by the Guarantor to AKD.
- (b) AKD agrees to notify the Guarantor after it exercises any right of set-off under clause 12(a) unless an Event of Default has occurred.

13. Expenses

The Guarantor must pay to AKD all reasonable costs, charges, fees and expenses (including, without limitation, all stamp duty and legal fees and costs and debt recovery expenses on a full indemnity basis as a liquidated debt) incurred by AKD in connection with any entry into this Guarantee, the exercise or attempted exercise of any power, right or remedy under this Guarantee and/or the failure of the Guarantor to comply with any obligations under this Guarantee.

14. Acknowledgement

The Guarantor acknowledges that the Guarantor:

- (a) has entered into this Guarantee voluntarily;
- (b) has read and understood the nature and consequences of entering in to this Guarantee;
- (c) has not signed this Guarantee on the basis of any representation of AKD, AKD's employees, agents or representatives or under the duress of any person; and
- (d) is entitled to seek independent legal and financial advice before signing this Guarantee.

15. Joint and Several

If there is more than one Guarantor, the obligations of each Guarantor are joint and several.

16. Severance

Each clause, subclause and part of this Guarantee is separate and independent. If any clause or subclause is found to be invalid or ineffective, the other clauses or subclauses or parts will not be adversely affected.

17. Amendments

This Guarantee may only be amended by AKD and the Guarantor in writing.

18. Assignment

The Customer may not assign this Guarantee without AKD's prior written agreement.

19. Application of Laws

This Guarantee is governed by the laws of the state of Victoria. AKD and the Guarantor submit to and consents to the central Courts of Victoria having jurisdiction over this Guarantee.

20. Definitions

In this Guarantee unless the context requires otherwise:

Administration	includes any administration or liquidation of a corporation, arrangement, receivership, receivership and management or anything similar;
Credit-related information	includes "credit information", "credit reporting information" and/or "credit eligibility information" and/or "regulated information" (as the context permits) within the meaning of those terms in the Privacy Act.
Customer	means the Customer named in the Application for Commercial Credit of which the Guarantee and Indemnity forms a part;
Guarantee	means this Guarantee and Indemnity;
Guaranteed Monies	means all monies which are, will or may be at any time in the future, owing or payable to AKD by the Customer for any reason whatsoever including, without limitation, money by way of principal, interest, fees, costs, indemnities, charges, duties or expenses or payment of liquidated damages. Where the Customer would have been liable but for the Customer's Administration, the Customer and Guarantor will still be taken to be liable;
Officer	means each director, secretary, credit manager and authorised representative of AKD; and
Privacy Act	means the <i>Privacy Act 1988 (Cth)</i> as amended from time to time; and any term defined in the Credit Terms will have the same definition in this Guarantee.

21. Interpretation

- (a) In this Guarantee unless the context requires otherwise, all references to a party include the party's successors and permitted assigns.
- (b) No provision of this Guarantee will be construed adversely against a party solely because the party was responsible for drafting the provision.

GUARANTOR'S PRIVACY AND CREDIT REPORTING ACKNOWLEDGMENT AND CONSENT

PRIVACY AND COLLECTION NOTICE (APP 5)

AKD's Privacy Policy contains information about how AKD handles personal information (including personal information collected via its website) and complies with its obligations under the Privacy Act and the Australian Privacy Principles (APPs). AKD must take reasonable steps, before or at the time it collects personal information, to notify the Guarantor of certain matters or to ensure that the Guarantor is aware of certain matters. Those matters are set out in AKD's Collection Notice (APP 5) and include:

- How AKD collects the Guarantor's personal information and purposes for which AKD collects that information
- The kinds of third parties AKD may collect the Guarantor's personal information from eg. the Customer, agents, credit reporting bodies
- Who AKD may disclose the Guarantor's personal information to eg. professional advisors, debt collectors, credit reporting bodies
- That AKD is not likely to disclose the Guarantor's personal information to an overseas recipient
- How the Guarantor can complain about a breach of the Privacy Act or APPs (as set out in AKD's Privacy Policy)
- How AKD will deal with a complaint (as set out in AKD's Privacy Policy)
- How the Guarantor can request access to and/or correction of the Guarantor's personal information (as set out in AKD's Privacy Policy)
- The main consequences if AKD cannot collect the Guarantor's personal information eg. AKD may be not be able to accept this Guarantee, grant credit terms to the Customer, or provide an appropriate level of service.

AKD's Collection Notice (APP 5) and Privacy Policy are published on AKD's website at www.akd.com.au/customer.php. Copies can also be obtained in an alternative form (such as hard copy) and free of charge by contacting AKD's Privacy Officer on (03) 5231 9100

CREDIT REPORTING AND STATEMENT OF NOTIFIABLE MATTERS

AKD's Credit Reporting Policy contains information about credit reporting, including how AKD manages the personal information it obtains from credit reporting bodies (CRBs) and how it manages other types of credit-related personal information. For the purpose of this application, credit-related personal information has the meaning given to that term in the *Privacy (Credit Reporting) Code 2014 (Version 1.2)* (Cth). Under the Privacy Act and Credit Reporting Privacy Code there are several matters that AKD is required to notify the Guarantor of at or before it collects personal information that is likely to be disclosed to a CRB. Those matters are set out in AKD's Statement of Notifiable Matters and include:

- The identities of the CRBs that AKD is likely to disclose credit-related personal information to
- That a CRB may include credit-related personal information in reports provided to other credit providers to assist them in assessing the Guarantor's credit worthiness
- How the Guarantor can obtain a copy of AKD's Credit Reporting Policy
- The Guarantor's right to access credit-related personal information from AKD, to request AKD to correct the information, and/or to make a complaint (as set out in AKD's Credit Reporting Policy) including how AKD will deal with a complaint
- That if the Guarantor commits a serious credit infringement, AKD may be entitled to disclose that infringement to a CRB
- That AKD is not likely to disclose the Guarantor's credit-related personal information to entities that do not have an Australian link
- The Guarantor's right to request that a CRB not use or disclose the Guarantor's credit-related personal information in certain situations
- Information about the identities of the CRBs AKD deals with and how the Guarantor can obtain a copy of these CRBs' credit reporting policy

AKD's Statement of Notifiable Matters and Credit Reporting Policy are published on AKD's website at www.akd.com.au/customer.php. Copies can also be obtained in an alternative form (such as hard copy) and free of charge by contacting AKD's Privacy Officer on (03) 5231 9100

The Guarantor gives the following consents and authorisations for so long as AKD provides credit to the Customer:

- (a) For AKD to collect, use, hold and disclose personal information and credit-related personal information about the Guarantor as described in AKD's Collection Notice and Statement of Notifiable Matters;
- (b) For AKD to request credit reports containing credit-related personal information about the Guarantor's consumer and/or commercial credit arrangements from CRBs for the purpose of assessing this Guarantee and/or the Guarantor's creditworthiness and/or in connection with any related purpose from time to time as reasonably required and for CRBs to provide that information;
- (c) For AKD to disclose personal information and/or credit-related personal information about the Guarantor to CRBs to enable CRBs to create and maintain records containing credit-related information about the Guarantor;
- (d) For AKD to disclose to the Customer and/or any related bodies corporate of AKD and/or any agents of AKD and/or any of the Guarantor's current or potential guarantors and/or any other current or potential provider of credit to the Guarantor, for the purposes set out in this Guarantee and/or in AKD's Credit Reporting Policy:-
 - credit reports containing credit-related information about the Guarantor;
 - personal information and/or credit-related personal information about the Guarantor that is derived from credit reports obtained from CRBs;
 - any other information about Guarantor's consumer credit and/or commercial credit arrangements.
- (e) For AKD to collect personal information and/or credit-related information about the Guarantor from any entity the Guarantor has granted security to (including the Guarantor's bank and/or

financial institution) for the purposes set out in this Guarantee and/or AKD's Credit Reporting Policy and for those institutions to disclose personal information and/or credit-related personal information about the Guarantor to AKD; and

- (f) For AKD to exchange the Guarantor's credit-related information with any collection agents of AKD and/or any of AKD's related bodies corporate and/or any current or potential provider of credit to the Guarantor for the purposes set out in this Guarantee and/or AKD's Credit Reporting Policy.

The Guarantor understands that the information permitted to be disclosed to or by AKD under the Privacy Act will include:

- (a) Details to identify the Guarantor - that is, name, sex, date of birth, current / last known and 2 previous addresses, current or last known employer, and driver's license number;
- (b) The fact that the Guarantor has guaranteed credit and the amount of the credit;
- (c) Advice that payments previously notified as unpaid are no longer overdue;
- (d) Payments of \$150 or more that have been claimed under the Guarantee and which are overdue for at least 60 days and for which collection action has started;
- (e) In specified circumstances, that in the opinion of AKD the Guarantor has committed a serious credit infringement; and
- (f) The fact that the Guarantee has been paid, satisfied, or otherwise discharged.

The Guarantor gives these acknowledgments, consents and agreements for the benefit of AKD and for any CRB, other credit provider or financial institution that AKD discloses the Guarantor's personal information or credit-related personal information to or receives such information from.

SCHEDULE

I/We have read and understood this document. I/We have not relied on anything said to me/us by the Customer or AKD as to what it means or what its effects may be.

I/We understand that I/we need not give any of the personal information requested in this Guarantee. However without this information it may not be possible for AKD to accept this Guarantee or provide an appropriate level of service. By signing this Guarantee I/we authorise AKD to collect, hold, use, and disclose my/our personal information in the manner set out in this Guarantee and/or in AKD's Privacy Policy and Credit Reporting Policy (as may be amended from time to time). I/We acknowledge having read and understood AKD's Privacy Policy and Credit Reporting Policy and that I/we am/are aware that copies of those policies are available on AKD's website at www.akd.com.au or in an alternative form and free of charge from AKD's Privacy Officer upon request

SIGNED by each Guarantor in the presence of the witnesses whose names appear below.

DATED this day of 20

Guarantor's Full Name:		Signature:	
Witness' Name (Print):		Signature:	
Witness' Address:			

Guarantor's Full Name:		Signature:	
Witness' Name (Print):		Signature:	
Witness' Address:			

Guarantor's Full Name:		Signature:	
Witness' Name (Print):		Signature:	
Witness' Address:			

Guarantor's Full Name:		Signature:	
Witness' Name (Print):		Signature:	
Witness' Address:			

IMPORTANT NOTICE: This is an important document. It may require you to pay someone else's debts. You should ensure that you read and understand the terms of this Guarantee. If necessary, seek independent legal advice.