

AMERICAN HARDWOODS PTY LTD

CREDIT APPLICATION & TERMS AND CONDITIONS OF SALE

DATE: / /

To: American Hardwoods Pty Ltd
 Address: 14 Duffy Street, Burwood, Victoria, 3125
 Telephone: (03) 9808 5001 Fax: (03) 9808 4007

ABN: 311 693 25 124
 Email: sales@americanhardwoods.com.au

(the "Company")

1 CUSTOMER:					
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"/> Trading as a Trust	Trustee Name:		Trust ABN:	
Registered and/or Trading Name:					
Registered Address:					
ACN:			ABN:		
Postal Address:				Postcode:	
Business Address:				Postcode:	
Telephone (Bus): ()		Mobile:		Facsimile: ()	
Email:					
Contact Person:			Position:		
Tel:			Email:		
2 PURCHASING DETAILS:					
(a) Estimated monthly purchases: \$					
(b) Product to be purchased:					
3 FULL NAMES AND ADDRESSES OF DIRECTORS, PARTNERS AND SOLE TRADERS:					
Name:			Telephone : ()		
Address:					
Date of Birth: / /	Residence (tick) :	<input type="checkbox"/> Own	<input type="checkbox"/> Renting	<input type="checkbox"/> Mortgage	
Name:			Telephone : ()		
Address:					
Date of Birth: / /	Residence (tick) :	<input type="checkbox"/> Own	<input type="checkbox"/> Renting	<input type="checkbox"/> Mortgage	
Name:			Telephone : ()		
Address:					
Date of Birth: / /	Residence (tick) :	<input type="checkbox"/> Own	<input type="checkbox"/> Renting	<input type="checkbox"/> Mortgage	
Name:			Telephone : ()		
Address:					
Date of Birth: / /	Residence (tick) :	<input type="checkbox"/> Own	<input type="checkbox"/> Renting	<input type="checkbox"/> Mortgage	

4 DETAILS OF BUSINESS:	
Bank Details:	
Account Name:	Bank:
Account No.:	BSB:
Type of Business:	How long established?
How long the current owner?	Company/Builders Registration No.
Previous Trading Name (if changed in the previous 2 years):	
Name of any related or subsidiary companies or partnerships:	
Are the Customer's business premises owned or leased?	
If leased, agent/landlord name and phone no.:	Expiry date of lease: / /
Do you (or any related companies) currently trade with the Company or hold an account with the Company, or have you (or any related companies) traded with the Company or held an account with the Company?	
If yes, give details:	
Have securities been given over of any assets of the Customer or any Guarantor:	
If yes, give details:	

Please attach certificate of incorporation and/or business name registration and financial records to support this application.

5 TRADE REFERENCES Monthly purchases equal to or more than requested credit limit.			
1	Supplier Name:	Phone No:	Fax: Avg Monthly Purchases: \$
2	Supplier Name:	Phone No:	Fax: Avg Monthly Purchases: \$
3	Supplier Name:	Phone No:	Fax: Avg Monthly Purchases: \$
4	Supplier Name:	Phone No:	Fax: Avg Monthly Purchases: \$

DECLARATION & ACKNOWLEDGEMENT
The Application I/We (the Customer) (variously in this application called "I/we" and "me/us") agree, declare and acknowledge that:
(a) If this application is accepted by the Company, all of its terms of trade as amended from time to time ("Terms") will be binding on me/us;
(b) I/We have been given, read and understood the current Terms and Conditions of Sale employed by the Company prior to completing this application; and
(c) The Company reserves the right to accept or reject this application in its absolute discretion;
I/we hereby represent and warrant that the information set out in this application is true and correct and acknowledge that the Company will rely upon the information provided and is hereby induced to grant credit to me/us.
The Terms Upon the Company allowing me/us to trade on credit, I/we agree, declare and acknowledge that the Terms apply to all my/our dealings with the Company and I/we hereby agree to comply with the Terms. I/we further acknowledge that if the Customer is a corporation, provision of credit pursuant to this application may, at the Company's absolute discretion, be subject to and conditional upon all of the directors of that corporation executing the attached Guarantee and Indemnity. I/we further acknowledge that if I am/we are a trustee for a trust, the Terms are binding on the trustee in its own capacity as well as in its capacity as trustee.
The National Consumer Credit Code I/We declare that the credit to be provided to me/us by the Company is to be applied wholly or predominantly for business and/or investment purposes. Important: You should only sign this declaration if this credit is wholly or predominantly for business and/or investment purposes. Otherwise, in signing this declaration you may lose your protection under the National Consumer Credit Code.

The Credit Information

I/We consent to and authorise the Company:

- (a) to request a credit report containing information about my/our consumer or commercial credit arrangements from a credit reporting agency for the purposes of assessing this application or in connection with the attached Guarantee and Indemnity;
- (b) to give a credit reporting agency or the Timber Merchants Association information to allow the credit reporting agency or Timber Merchants Association to create and maintain a credit information file containing information about me/us;
- (c) to disclose a credit report or any personal information derived from the credit report, and any information about my/our personal or commercial credit arrangements to the Company, any agent of the Company assisting in processing the application and any other provider of credit to me/us named in this application in a credit report from a credit reporting agency; and
- (d) to notify and exchange information with other credit providers and any collection agent of the Company.

Privacy

I/We understand that the information permitted to be disclosed under the Australian Privacy Principles under the Privacy Act 1988 (Cth) includes:

- (a) details to identify me/us, including that is, name, sex, date of birth, bank account details, tax file number, current and 2 previous addresses, current or last known employer, and driver's licence number;
- (b) the fact that I/we have applied for credit, the amount, or that the Company is a current credit provider to me/us;
- (c) advice that payments previously notified as unpaid are no longer overdue, payments overdue for at least 60 days and for which collection action has started, or cheques for more than \$100 drawn by me/us which have been dishonoured more than once;
- (d) in specified circumstances, that in the opinion of the Company I/we have committed a serious credit infringement; and
- (e) the fact that credit provided to me/us by the Company has been paid or otherwise discharged.

Further, in order to assess this application, I/we authorise the Company:

- (a) to obtain from a credit reporting agency a credit report containing personal information about me/us in relation to personal credit provided by the Company;
- (b) to obtain from a credit reporting agency a credit report containing personal information about me/us in relation to commercial credit provided by the Company;
- (c) to obtain a report containing information about my/our commercial activities or commercial creditworthiness from a business which provides information about the commercial creditworthiness of a person in relation to personal credit provided by the Company;
- (d) to obtain a report form a credit reporting agency and other information in relation to my/our commercial credit activities.

I/we authorise the Company to give and obtain from credit providers that may be named in this application and credit providers that may be named in a credit report issued by a credit reporting agency information about my/our credit arrangements.

I/we understand this information can include any information about my/our general credit history and credit worthiness that credit providers are allowed to give or receive from each other under the Privacy Act. I/we understand the information may be used for any of the following purposes:

- (a) to assess an application by me/us for credit;
- (b) to assist me to avoid defaulting on my/our credit obligations;
- (c) to notify other credit providers of a default by me/us;
- (d) to assess my/our creditworthiness.

If signing on behalf of a company, I/we are duly authorised by the company to sign this application.

Name:

Position:

Signature:

Dated: / /

(Signed for and on behalf of the Customer)

Witness:

Witness Address:

TERMS & CONDITIONS OF SALE

All contracts and dealings between the Company and the Customer relating to any products (“**products**”) or services (“**services**”) are subject to these Terms & Conditions of Sale (“**Terms**”) unless otherwise expressly agreed in writing.

1. **Purchase Price:** All products are sold by the Company at its current price at the time of delivery. Prices may be subject to change without notice. Official quotations made by the Company are valid for thirty (30) days from quotation date, after which they may be subject to change without notice.

2. **Payments:** Unless otherwise specified in writing by the Company, all payments are without deduction unless otherwise agreed and all payments are due within 30 days after the end of the month in which delivery was made.

3. **GST:** Each amount payable by the Customer under these Terms in respect of a Taxable Supply by the Company is a GST exclusive amount and the Customer must, in addition to that amount and at the same time, pay the GST due in respect of that supply.

4. **Interest:** The Company will charge interest on overdue moneys owed at the annual rate of 4 percentage points above the annual rate of interest set out in the *Penalty Interest Rates Act 1983 (Vic)* from time to time. Interest will be calculated from the due date of the moneys owing to the date the Company receives payment in full.

5. Security Interest and Charge:

- (a) The risk in the products passes to the Customer when the products are collected by the Customer or are delivered to a carrier nominated to take delivery of the products.
- (b) Property and ownership in any products delivered does not pass to the Customer until payment in full of all Monies Owed to the Company on any account.
- (c) Until property and ownership passes to the Customer, the Customer acknowledges and agrees that it grants the Company a Security Interest in the products and that:
 - (i) The Customer will not grant or seek to grant any Security Interest in the goods adverse to the interest of the Company;
 - (ii) The Company’s Security Interest secures all monies owing by the Customer to the Company on any account;
 - (iii) The Company’s Security Interest in the products (and the proceeds) is a Purchase Money Security Interest (“**PMSI**”) to the extent that it secures payment of the amounts owing in relation to the products;
 - (iv) The Company may apply any monies received by the Customer first to satisfy any portion of debt that is unsecured, second to satisfy any portion of debt that is secured but not by a PMSI and third to satisfy any portion of debt that is secured by a PMSI, or in any other manner the Company sees fit; and
 - (v) The Company’s Security Interest Attaches to the products when the Customer attains possession of the products and to the proceeds of sale of the products.
- (d) The Customer will hold the products as fiduciary bailee and agent for the Company and must store the products separately from products not supplied by the Company and in a manner to enable them to be cross-referenced to particular invoices.
- (e) The Company is and will be entitled at any time to demand the return of the goods, to retake possession of the goods and to recover the deficiency on resale plus cost of repossession from the Customer and the Customer must do all things necessary to immediately permit the Company without notice and without liability to the Company, to enter and access any premises occupied by the Customer in order to search for, locate, identify, retrieve and remove those goods to which the Company has title.
- (f) The Customer agrees to provide all information and execute all documents necessary for the Company to register and perfect its Security Interest in the products under the PPSA and agrees that all fees in relation to registration including amendments to any registration are to be borne by the Customer.
- (g) The Customer waives its right to receive any notice under the PPSA (including notice of a verification statement after registration or variation of a registration) unless a requirement for notice cannot be excluded under the PPSA.
- (h) The Customer agrees that a certificate signed by an officer of the Company identifying products as unpaid shall be conclusive evidence that the goods have not been paid for.
- (i) As further security for payment of all Monies Owed to the Company, the Customer as Secured Party charges the Customer’s Other Property by way of fixed charge, in favour of the Company as continuing security for the payment to the Company of all Monies Owed to the Company.
- (j) To the extent that the Security Interest relates to the Customer’s after acquired Personal Property, the Security Interest Attaches on the date that the Customer has the power to transfer rights in the Customer’s Personal Property to the Company.
- (k) The Security Interest in favour of the Company is a continuing security and remains in force until the Company gives a final release and where required a Financing Change Statement, to the Customer.
- (l) The Company is under no obligation to provide a final release until:
 - (i) the Monies Owed have been repaid in full and the Company is satisfied that no money will subsequently become owing to the Company within the definition of Monies Owed; and
 - (ii) the Company is satisfied that any payment to the Company in reduction of the Monies Owed is not repayable, void or voidable under a law relating to insolvency or protection of creditors.

6. Warranty:

- (a) If the Australian Consumer Law applies to these Terms:

Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.
- (b) The Customer acknowledges that all products are sold subject to the manufacturer’s trading terms and conditions and any warranty of the manufacturer.
- (c) In order for the Customer to be entitled to make a warranty claim, the Customer must notify the Company in writing within 14 days of the defect appearing in the products. The notice must be sent to the Company’s postal address, being that set out in the Credit Application, and should include the company’s store from where the goods were purchased (including its address) and the invoice number.
- (d) Subject always to clause 6(a), all conditions, warranties and guarantees other than those expressly provided for in these Terms are excluded to the fullest extent permitted by law; and the Company will not be liable to the Customer for any loss caused (in whole or in part) by or arising out of any use of the products or any defect in the products or any failure, malfunction, breakdown or deterioration of the products.

7. Limitation of liability:

- (a) The Company will not be liable for any contingent, consequential, direct, indirect, special or punitive damage or loss whatsoever suffered by the Customer, as a result of any act, omission or statement made by the Company, its employees, contractors or agents whether due to negligence or otherwise, except that nothing in these Terms limits any liability imposed by any statute unless or to the extent that is lawful to do so.
- (b) No other term, condition, agreement, warranty, representation or understanding whether express or implied, in any way extending to, otherwise relating to or binding upon the Company, other than these Terms, is made or given by or on behalf of the Company and the Customer acknowledges that it relies on its own knowledge and expertise in selecting any products for any purpose and any advice or assistance given for or on behalf of the Company shall be accepted at the Customer’s risk.

- (c) Where the Company is not permitted to exclude, restrict, or modify its liability for a breach of a condition or warranty that is implied by any statute or applicable laws but is permitted to limit its liability for the breach of such condition or warranty, the Company's liability is limited to any one of the following as determined by the Company in its absolute discretion:
- (i) in the case of products supplied, the replacement of the products or the supply of equivalent products, the repair of the products, the payment of the cost of replacement of the products or of acquiring equivalent products, or for the payment of the cost of having the products repaired; and
 - (ii) in the case of services provided, the supply of the services again, or the payment of the cost of having the services supplied again.
- 8. Cancellation & Returns:** No order may be cancelled except with the Company's consent in writing. The Customer agrees that:
- (a) the Company may elect to take back products in saleable condition on terms agreed;
 - (b) any product which the Company has elected to accept back must be returned at the Customer's cost;
 - (c) the Company is under no obligation to provide a refund for products returned;
 - (d) custom made, custom processed or custom acquired products will not be returnable at all; and
 - (e) in the event that the Company agrees to the return of the products by the Customer, the products are at the Customer's risk until such time as the products reach the Company's place of business.
- 9. Orders and Delivery:** The Customer agrees that:
- (a) The Company may, without incurring any liability, refuse to accept any order for products made by the Customer in whole or in part in its absolute discretion;
 - (b) When any order is placed, the Customer shall inform the Company of any facts which might reasonably affect any decision to accept the order and/or grant credit. Any failure to do so shall be deemed to create an inequality of bargaining position, the taking of an unfair advantage of the Company and to be unconscionable, misleading and deceptive;
 - (d) From the time of placing an order (including forward orders), the Customer is obliged to accept and pay for the products in accordance with these Terms and a cancellation of or alteration of the order by the Customer for any reason shall not discharge this obligation to accept the products and make payment;
 - (e) The Company shall use its best endeavours to ensure that the product is available and that the services are provided to the Customer within a reasonable time frame requested by the Customer, but shall not be liable for any loss or damage caused by any delay. The Customer shall not be entitled to reject the products or services by reason of any delay;
 - (f) The Company may at any time alter specifications in respect of products without giving notice to the Customer, in the interest of continued product improvement. An alteration does not entitle the Customer to return products, cancel an order or otherwise avoid its obligations and liabilities pursuant to these Terms;
 - (g) The Company may charge the Customer for its costs and expenses associated with handling and/ or holding any products once ready for delivery. The Company has no responsibility or duty to deliver but may elect to arrange delivery at its discretion and without liability for delay, failure or inability to deliver, and at the Customer's sole cost and risk. The Company may charge the expenses for a frustrated delivery;
 - (h) The Company is not responsible for any loss or damage to products in transit; and
 - (i) The Company has the right to deliver by instalments and each instalment shall be deemed to be sold under a separate contract. Failure by the Company to deliver any instalment will automatically be deemed to be a back order and will not entitle the Customer to cancel the balance of the order. In the event of the Customer failing to take delivery of any instalment, the Company may elect to cancel the balance of the order.
- 10. Termination:** The Company is entitled in its absolute discretion to immediately cancel any order of the Customer if the Customer suffers an Event of Default without any liability attaching to the Company.
- 11. Notification of Change of Details:** Where any change takes place in the Customer's trading structure or management, including any change of director, shareholder or any change in partnership or trusteeship notwithstanding any advice by the Customer to Company, the Customer shall not continue to operate its credit account without the Company's prior written consent, and the Customer shall remain liable for all amounts owed to the Company until the whole amount (including interest and charges) has been paid in full to the Company.
- 12. Other Terms and Conditions:** No terms and conditions sought to be imposed by the Customer upon the Company shall apply. These Terms supersede all previous terms and conditions and may only be varied if authorised in writing on behalf of the Company.
- 13. Expenses:** The Customer must pay to the Company all costs, charges and expenses (including all stamp duty and legal fees on an indemnity basis) incurred by the Company, its legal advisers, mercantile agents and others in connection with entry into these Terms, the exercise or attempted exercise of any power, right or remedy under these Terms, the failure of the Customer to comply with these Terms; recovery of Monies Owed, possession of any products or otherwise.
- 14. Set off:** The Company is entitled in its absolute discretion to set off any credits that may appear in the Customer's account with the Company against any other amounts owed by or debts of the Customer to the Company (and to give effect to this, the Customer irrevocably appoints the Company as the Customer's attorney).
- 15. Credit Limit:** The grant of any credit facility and/or the nomination of any credit limit is an indication only of the Company's intention at that time and the Company may vary, reduce or withdraw any credit facility at any time at its discretion and without any liability to the Customer or any other person or entity. The Customer agrees to pay on demand all sums owing in connection with this credit facility in the event the credit facility is withdrawn. The Customer acknowledges that the Company may make additional periodic credit checks to ensure the Customer remains credit worthy.
- 16. Privacy Act 1988 (Cth):** You hereby authorise:
- a) the Company to use any personal information that you give the Company for credit (including investigating your trading history and trade practices), administration, service, and marketing purposes. If you do not give this information the Company may not be able to provide products to you; and
 - b) any person or company to give the Company such information as it may require in response to its credit and other enquiries.
- 17. You understand that the Company may use a credit reporting agency to credit check you. In such case:**
- a) the agency will give the Company information about you for that purpose;
 - b) the Company will give your personal information to the agency, and the agency will hold the information on its systems and use it to provide their credit reporting service;
 - c) when other customers use the service, the agency may give the information to those customers; and
 - d) if you default in your payment obligations to the Company, information about the default may be given to the agency, and the agency may give the information to other customers.
- 18. You acknowledge that any personal information provided by you to the Company is subject to the Company's Privacy Policy from time to time. The Company's Privacy Policy is on the Company's website www.americanhardwoods.com.au. You may also request a copy of the Company's Privacy Policy by emailing the Company at sales@americanhardwoods.com.au. You understand you have a right of access to, and may request correction of, your personal information in the manner specified in the Company's Privacy Policy from time to time.**
- 19. For the purposes of clauses 16, 17 and 18 above "you" and "your" includes any guarantor of the Customer's obligations to the Company.**
- 20. Force Majeure:** The Company will not be or deemed to be in default or breach of any contract as a result of the effects of force majeure. Force majeure will include any cause beyond the reasonable control of the Company. The Company will not be liable for any loss incurred as a result of delay or failure to meet an acceptable order or to observe these Terms due to the effects of force majeure.

21. **Disputes:** Any claims as to quality or quantity of products supplied must be made within 14 days of delivery of the products to the Customer. In the event of a dispute between the Customer and the Company, the Customer agrees to pay the Company all such amounts owing to the Company by the Customer until such time as the dispute is resolved.
22. **Statement by the Company:** A statement by any officer of the Company is conclusive evidence of any fact, matter or thing.
23. **General:**
- (a) These Terms are governed by the laws of the State of Victoria and the parties submit to the non-exclusive jurisdiction of the Victorian Courts and the courts of appeal therefrom.
 - (b) These Terms bind the Customer both personally and as trustee of any trust which the Customer is trustee.
 - (c) Each clause and subclause of these Terms are separate and independent. If any clause or subclause is found to be invalid or ineffective, the other clauses or subclauses will not be adversely affected.
 - (d) The Company can transfer its rights under these terms to a third party. If the Company does so, these Terms will apply to the transferee as if it were the Company. If the Company wants to transfer its rights it can give the proposed transferee all information that privacy legislation allows it to give.
 - (e) The Customer cannot assign its rights or obligations under these Terms to any third party without the prior written consent of the Company, which may be withheld in the Company's absolute discretion.
24. **Definitions:**
- | | |
|-----------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Attaches | has the same meaning as defined in the PPSA. |
| Australian Consumer Law | means the Australian Consumer Law as set out in Schedule 2 of the <i>Competition and Consumer Act 2010</i> (Cth). |
| Company | means the company identified on page 1 of this Credit Application or the supplier of products to the Customer as the case may be. |
| Customer | means the party to whom the Company has supplied its products, including but not limited to its subsidiaries, affiliates, associated companies, related company successors or assigns. |
| Customer's Other Property | means all of the Customer's present and after acquired legal and beneficial rights and interests in land and any other property, which is not the Customer's Personal Property. |
| Customer's Personal Property | means all of the Customer's present and after acquired Personal Property and all present and after acquired Personal Property in which the Customer has rights. |
| Event of Default | means any of the following events: <ol style="list-style-type: none"> (a) the Customer is in breach of these Terms; (b) if the Customer is a company: an order is made or a resolution is effectively passed for winding up of the Customer; the Customer resolves to appoint an administrator, or a receiver or provisional liquidator or an administrator is appointed; the Customer goes into liquidation or makes an assignment or an arrangement or composition with its creditors; the Customer is deemed unable to pay its debts within the meaning of the <i>Corporations Act 2001</i> (Cth); if the Customer is a natural person, an order is made for the Customer's bankruptcy or the Customer is bankrupted, 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; (c) the Customer ceases or threatens to cease carrying on business. |
| Financing Change Statement | has the same meaning as defined in the PPSA. |
| GST | means any tax or imposition on the supply of goods and services covered by the GST Act as amended from time to time. |
| GST Act | means <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth). |
| Monies Owed | means all monies which are owing or payable to the Company by the Customer for any reason whatsoever. |
| Personal Property | has the same meaning as defined in the PPSA. |
| PPSA | means the <i>Personal Property Securities Act 2009</i> (Cth) and all italicised and capitalised terms used above have the meaning given to them in the PPSA. |
| Purchase Money Security Interest | has the same meaning as defined in the PPSA. |
| Secured Party | has the same meaning as defined in the PPSA. |
| Security Interest | has the same meaning as defined in the PPSA. |
| Taxable Supply | has the same meaning as defined in the GST Act. |

PERSONAL/DIRECTORS GUARANTEE AND INDEMNITY

IN CONSIDERATION of the Company at the request of the Guarantor (as is now acknowledged) supplying and continuing to supply goods and/or services to the Customer,

I/WE (also referred to as the “Guarantor/s”) UNCONDITIONALLY AND IRREVOCABLY:

1. **GUARANTEES** the due and punctual payment to the Company of all moneys which are now owing to the Company by the Customer and all further sums of money from time to time owing to the Company by the Customer in respect of goods and services supplied or to be supplied by the Company to the Customer or any other liability of the Customer to the Company, and the due observance and performance by the Customer of all its obligations contained or implied in any contract with the Company. If for any reason the Customer does not pay any amount owing to the Company the Guarantor will immediately on demand pay the relevant amount to the Company.
2. **HOLD HARMLESS AND INDEMNIFY** the Company on demand as a separate obligation against any liability (including but not limited to damages costs losses and legal fees (as defined hereunder in paragraph (b) hereof)) incurred by or assessed against the Company in connection with:
 - (a) the supply of goods and/or services to the Customer; or
 - (b) the recovery of moneys owing to the Company by the Customer including the enforcement of this Guarantee and Indemnity, and including but not limited to the Company’s nominees costs of collection and legal costs calculated on a solicitor and own client basis; or
 - (c) moneys paid by the Company with the Customer’s consent in settlement of a dispute that arises or results from a dispute between, the Company, the Customer, and a third party or any combination thereof, over the supply of goods and/or services by the Company to the Customer.
3. **PROVIDES THE FOLLOWING SECURITY**
 - (a) To secure payment of all monies which are or may become payable by the Guarantor to the Company under this Guarantee, the Guarantor hereby:
 - (i) charges with the due payment of all of those moneys all of the Guarantor’s right, title and interest in any and all real property wherever located both present and future and the Guarantor consents to the Company lodging a caveat or caveats to protect the Company’s interest therein; and
 - (ii) grants a *Security Interest* in all of the Guarantor’s present and after-acquired *Personal Property* in favour of the Company and consents to the Company registering such *Security Interest* over the Guarantor on the *Register*;
 - (b) The Guarantor agrees that this Guarantee constitutes a *Security Agreement* under the PPSA.
 - (c) The Guarantor waives its right to receive any notice under the PPSA (including notice of a *Verification Statement* after registration or variation of a registration) unless a requirement for notice cannot be excluded under the PPSA.
 - (d) Upon demand by the Company, the Guarantor agrees to immediately execute a mortgage or other instrument in terms satisfactory to the Company to further secure the Guarantor’s indebtedness to the Company. Should the Guarantor fail within a reasonable time of such demand to execute such mortgage or other instrument then the Guarantor appoints irrevocably the credit manager or a duly authorised officer of the Company to be the Guarantor’s lawful attorney to execute any such mortgage or other instrument.
4. **I/WE FURTHER ACKNOWLEDGE AND AGREE THAT:**
 - (a) this Guarantee and Indemnity shall constitute an unconditional and continuing Guarantee and Indemnity and accordingly shall be irrevocable and remain in full force and effect until the whole of all moneys owing to the Company and all obligations to be performed by the Customer have been fully paid satisfied and performed;
 - (b) no granting of credit, extension of further credit, or granting of time and no waiver, indulgence or neglect to sue on the Company’s part (whether in respect of the Customer or any one or more of any other Guarantor(s) or otherwise) and no failure by any named guarantor to properly execute this Guarantee and Indemnity shall impair or limit the liability of any Guarantor under this Guarantee and Indemnity. Without affecting the Customer’s obligations to the Company, each Guarantor shall be a principal debtor and liable to the Company accordingly;
 - (c) If any payment received or recovered by the Company is avoided by law such payment shall be deemed not to have discharged the liability of the Guarantor, and the Guarantor and the Company shall each be restored to the position in which they would have been had no such payment been made;
 - (d) this Guarantee and Indemnity shall bind each of the signatories notwithstanding that one or more of the persons named as a “Guarantor” may never execute this Guarantee and Indemnity;
 - (e) the term “Guarantor” whenever used in this Guarantee and Indemnity shall, if there is more than one person named as Guarantor, mean and refer to each of them individually and all of them together unless the context otherwise requires, and the obligations and agreements on the part of the Guarantor contained in this Guarantee and Indemnity shall bind them jointly and severally;
 - (f) **I/We have been advised to obtain independent legal advice before executing this Guarantee and Indemnity. I/we understand that I/we am/are liable for all amounts owing (both now and in the future) by the Customer to the Company;**
 - (g) I/we irrevocably authorise the Company to obtain from any person or company any information which the Company may require for credit reference purposes. I/We further irrevocably authorise the Company to provide to any third party, in response to credit references and enquiries about me/us or by way of information exchange with credit reference agencies, details of this Guarantee and Indemnity and any subsequent dealings that I/we may have with the Company as a result of this Guarantee and Indemnity being actioned by the Company;
 - (h) The information provided herein is to be used by the Company for all purposes in connection with the Company considering this Guarantee and Indemnity and the subsequent enforcement of the same.

5. **DEFINITIONS**

In this Guarantee unless the context requires otherwise:

- Company** means the company identified on page 1 of the Credit Application attached.
- Customer** means the customer identified on page 1 of the Credit Application attached.
- Guaranteed Moneys** means all moneys which are, will or may be at any time in the future, owing or payable to the Company by the Applicant for any reason whatsoever. It includes, without limitation, money by way of principal, interest, fees, costs, indemnities, charges, duties or expenses or payment of liquidated damages. Where the Applicant would have been liable but for its Administration, it will still be taken to be liable.
- PPSA** means the *Personal Property Securities Act 2009* (Cth) and all italicised and capitalised terms used above have the meaning given to them in the PPSA.

SCHEDULE

I have read and understood this document. I have not relied on anything said to me by the Customer or the Company as to what it means or what its effect may be.

SIGNED by each Guarantor in the presence of the witnesses named below.

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

Dated this _____ day of _____ 20____

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

Dated this _____ day of _____ 20____

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

Dated this _____ day of _____ 20____

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

Dated this _____ day of _____ 20____

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.