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Credit Account Application

This Credit Account Application ("Application") has three sections:
(1) Applicant's Details, (2) Guarantee, and (3) General Conditions of Sale.

Complete this form IN FULL using CAPITAL LETTERS. Approval may be granted on a faxed/emailed copy of this form.
Post the original to Abcoe Distributors Pty Ltd ("Supplier") within 7 days or offer of credit may be revoked.

1. APPLICANT'S DETAILS

TYPE OF APPLICANT

Please Tick [ ] SOLE TRADER [ ] PARTNERSHIP [ ] PRIVATE COMPANY [ ] PUBLIC COMPANY [ ] TRUST

COMPANY / BUSINESS ENTITY ("APPLICANT")

Legal Name:
Trading Name:
Business Type:
ABN: Incorporation Date:
Contact Purchasing: Ph: Email:
Contact Accounts: Ph: Email:
Delivery Address:
Suburb: State: Post Code:
Invoice Address: Deliv. Hrs:
Suburb: State: Post Code:
Telephone: Fax No.:

DIRECTORS / OWNERS / PRINCIPALS

Full Name 1:
Home Address:
Mobile: Email: Drivers License No.:
Full Name 2:
Home Address:
Mobile: Email: Drivers License No.:
Full Name 3:
Home Address:
Mobile: Email: Drivers License No.:

Add and attach more if more exist.

TRADE REFERENCES			
Business Name	Contact Name	Telephone	Email
1: .....	.....	.....	.....
2: .....	.....	.....	.....
3: .....	.....	.....	.....

FINANCIAL DETAILS			
Anticipated Monthly Purchases: \$..... Credit Limit Requested: \$..... COD: Tick to select <input type="checkbox"/> Yes <input type="checkbox"/> No			
Please choose one of the following:			
<input type="checkbox"/> Invoice To Be Sent With Goods <input type="checkbox"/> Invoice To Be Sent With Goods and Emailed To Accounts			
<input type="checkbox"/> Unpriced Delivery Docket to be sent with the goods and Invoice to be emailed to Accounts			

**Agreed:**

The Applicant hereby applies for a credit or cash on delivery account on the basis set out in this Credit Account Application and the Applicant agrees with the General Conditions of Sale. The Applicant warrants that it has all necessary authority to make this Application and that information regarding the Applicant, in the Applicant's Details section of this Application, is correct in every detail. The Applicant must supply any future changed details for credit review, assessment and data entry. The Applicant irrevocably authorises the Supplier to have access to any credit information file, kept by any credit reporting agency or others, that contains information relating to the Applicant or its principals for the purpose of assessment for credit worthiness, credit history or credit capacity consistent with any applicable privacy regulation.

**(OPTION 1)** For an Applicant which is a **company**.

Signature of Director or duly authorised representative for the Applicant Print Signatory's Full Name: Print Signatory's Job Title:  Date: .....	Signature of Director or duly authorised representative for the Applicant Print Signatory's Full Name: Print Signatory's Job Title:  Date: .....
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**(OPTION 2)** For **all other business entities** (Note: for a partnership all partners must sign):

Signature for the Applicant Print Signatory's Full Name: Print Signatory's Job Title:  Date: .....	Applicant Print Signatory's Full Name: Print Signatory's Job Title:  Date: .....
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OFFICE USE ONLY – CREDIT TERMS			
<b>Account:</b> * Credit Account / COD <b>Type</b>	<b>Credit Time</b> *Order-to-order / 7 days / 14 days <b>Limit:</b> / 30 days from invoice date	<b>Credit Sum</b> \$ <b>Limit:</b>	
* [Delete whichever does not apply]			

## 2. GUARANTEE

1. The word "**Guarantors**" in this Guarantee refers to each signatory below of this Guarantee and his or her heirs, executors, administrators and assigns. The phrase "**General Conditions of Sale**" refers to the Supplier's document with that title, and any related order-specific terms and conditions of sale and order process data or documents.
2. The Guarantors must pay to the Supplier on demand all money of any type due now or after the date of this Guarantee by the Applicant to the Supplier whether actually or contingently under the General Conditions of Sale, including interest on the Applicant's overdue payments for the Supplier, costs of the Supplier in demanding, collecting and enforcing judgements for money due to the Supplier, and all expenses, damages, costs and losses (including legal costs and disbursements on a full indemnity basis and collection expenses and commissions of mercantile agents) in any way connected with or arising directly or indirectly from breach (by omission or commission) by the Applicant in punctual performance of its obligations to the Supplier under the General Conditions of Sale.
3. The Guarantor acknowledges that this personal guarantee and indemnity constitutes a security agreement for the purposes of the Personal Property Securities Act 2009 ("PPSA") and unequivocally consents to Abcoe Distributors Pty Ltd registering any interest so charged.
4. As a separate, additional and severable liability, the Guarantors unconditionally and irrevocably indemnify the Supplier against all claims, demands, liabilities, losses, damages, costs and expenses (including legal and accounting costs and disbursements on a full indemnity basis and collection expenses and commissions of mercantile agents) which the Supplier may incur (either actual or contingent) in any way connected with or arising directly or indirectly from breach (by omission or commission) by the Applicant of the General Conditions of Sale.
5. Regarding money due, despite any implication to the contrary in this Guarantee or elsewhere, the Guarantors' obligations under this Guarantee will be discharged only on payment of such money to the Supplier. This Guarantee is a principal obligation and not ancillary or collateral to any other obligation, and the Guarantors are not merely person(s) giving surety.
6. This Guarantee is a continuing unlimited guarantee and security, and liability under it is not affected, avoided or released by any failure, neglect, forbearance or waiver by the Supplier in enforcing payment of any money due, the performance or observance of any of the provisions of this Guarantee, any variation of this Guarantee or the General Conditions of Sale, or by any other thing which under the law relating to sureties would but for this provision have the effect of releasing the Guarantors.
7. In addition to representations made to the Supplier prior to, at or after the date of this Guarantee, the Guarantors warrant and represent that they have all necessary power to sign and perform this Guarantee and grant security over any trust property and that it is not necessary to obtain the prior consent of any person to grant such security.
8. Until this Guarantee is discharged, the Guarantors must not either directly or indirectly, and either before or after the insolvency, winding up or bankruptcy of the Applicant, or any other person have or exercise a right as surety in respect of the Applicant in competition with the Supplier or receive the benefit of any distribution, dividend or payment connected to the insolvency, winding up or bankruptcy of the Applicant on any grounds.
9. If there is more than one guarantor under this Guarantee then such guarantors are liable both jointly and separately. This Guarantee binds each person signing it even if one or more of the signatories do not sign it, die, are not bound by it or are released from it. It is not incumbent on the Supplier if it enforces this Guarantee against one guarantor to also enforce it against any other guarantor.
10. This Guarantee may be revoked by thirty (30) days' written notice provided that on the expiration of such period of notice all liabilities of the Applicant to the Supplier have been discharged, otherwise this Guarantee will remain in force until such liabilities are discharged.
11. The Supplier may assign its rights or part of them under this Guarantee. New South Wales law governs this Guarantee. A dispute that goes to court must go to a New South Wales court. This Guarantee is signed as a deed.

**Signature by Guarantors** (ie Applicant's principals or others)

Date: .....

.....  
Signature of Witness

.....  
Signature of Principal/Director

Print Full Name of Witness:

Print Signatory's Full Name:

Print Signatory's Residential  
Address:

Date: .....

.....  
Signature of Witness

.....  
Signature of Principal/Director

Print Full Name of Witness:

Print Signatory's Full Name:

Print Signatory's Residential  
Address:

### 3. GENERAL CONDITIONS OF SALE

The Customer hereby applies for credit terms or cash on delivery terms for the purchase of products, goods and services (collectively, "**Products**") from the Supplier under these General Conditions of Sale. The Supplier reserves the right to change prices without notice.

#### 3.1. DEFINITIONS

"**Agreement**" refer to these General Conditions of Sale with all attachments and any other documents referred to in the Agreement.

"**Conditions**" means these Credit Account Terms and Conditions.

"**Supplier**" means, in connection with the supply of any Goods or Services, Abcoe Distributors Pty Ltd making the supply to Customer.

"**Customer**" in these General Conditions of Sale refers to the Applicant specified in the Applicant's Details.

"**Products**" means any products, goods or services supplied by the Supplier.

"**Insolvency Event**" means, for the Customer, as applicable, being in liquidation or provisional liquidation, bankruptcy or under administration, having a controller (as defined in the Corporations Act 2001) or analogous person appointed to the Customer or any of the Customer's property, being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand, being unable to pay the Customer's debts, dying, ceasing to be of full legal capacity or otherwise becoming incapable of managing the Customer's own affairs for any reason, taking any step that could result in the Company becoming an insolvent under administration (as defined in section 9 of the Corporations Act 2001), entering into a compromise or arrangement with, or assignment for the benefit of, any of the Customer's members or creditors, or any analogous event. "**PPSA**" means the Personal Property Securities Act 2009;

#### 3.2. AGREEMENT

The Customer hereby applies for credit terms or cash on delivery terms for the purchase of products from the Supplier under these General Conditions of Sale. The Supplier reserves the right to change prices without notice.

#### 3.3. INDIVIDUAL CONTRACTS

On each occasion the Supplier receives from the Customer an order or instructions for the Products and the Supplier responds with an order confirmation, a binding and enforceable contract comes into force for the Products which are the subject of that order or instruction. The terms and conditions of that contract are set out in these General Conditions of Sale and the order confirmation. These General Conditions of Sale are irrevocable and can only be varied, modified, amended or added to only in writing executed by the Customer and the Supplier. At its discretion the Supplier may assign, novate or transfer in any way such individual contracts or these General Conditions of Sale or any of its rights or obligations.

#### 3.4. COMPOSITION AND INCONSISTENCY

These General Conditions of Sale are the entire general conditions of sale applicable to all contracts and transactions between the Customer and the Supplier to the exclusion of any provisions to the contrary in any purchase order form or other document of the Customer (e.g. the Customer's project brief, project plan, request for tender, request for information, or proposal). If as part of any specific contract or transaction pursuant to these General Conditions of Sale any such documents are incorporated by express reference, then:

- a) such documents are only incorporated to the extent they are expressly accepted in writing by the Supplier in an order confirmation;
- b) such documents apply only to the extent of specifying the description, quality or quantity of the Products; and
- c) to the extent of any inconsistency between such documents and these General Conditions of Sale, these General Conditions of Sale will have precedence and the Customer and the Supplier must take all necessary steps to remove that inconsistency.

#### 3.5. ORDERS AND PAYMENT

Freight, transport, packaging, postage and handling charges may apply in addition to the invoiced price of the Products. Settlement discounts and all other offered discounts, are not applicable if payment for the relevant Products is not received on or before the due date. The Supplier may charge a processing fee of \$30 on all dishonoured cheques. All prices stated by the Supplier are exclusive of Goods and Services Tax ("GST") unless otherwise expressly specified. All prices are those in force on the date of despatch, unless otherwise agreed. The Supplier may withhold delivery of the Products until the Customer has paid for them, in which event payment will be made before the delivery date. Payment by cheque will not be treated as having been made until that cheque is cleared.

#### 3.6. CANCELLATION POLICY

The Supplier will supply all Products on a firm sale basis (i.e. no cancellation is permitted), except that an order for Products may be cancelled at any time prior to despatch.

#### 3.7. ACCOUNT ISSUES

The Customer must notify the Supplier within 14 days of the date of any disputed invoice or account. If the Customer disputes an invoice or account it must nonetheless pay all other undisputed invoices and accounts and must not set off, suspend or withhold payment of them.

#### 3.8. ACCOUNTS AND RECORDS INSPECTION

The Customer grants the Supplier or the Supplier's authorised representative the right on 14 days' notice to examine the accounts and records of the Customer in so far as they relate to disputed invoices or accounts for Products.

#### 3.9. TRADING TERMS

Trading terms are strictly 30 days from the date of invoice. If an account is not paid within that time, the Supplier may immediately and without notice cancel all credit trading facilities to the Customer.

#### 3.10. INTEREST

Interest must be paid at the rate of 14% per annum on overdue balances until the Customer's account is brought within the credit time and sum limits agreed to by the Supplier.

### 3.11. PPSA

The expressions "accession", "collateral", "financing statement", "financing change statement", "security agreement", "security interest", "perfected security interest" and "verification statement" have the meanings given to them under, or in the context of the PPSA. References to sections are to sections of the PPSA.

- a) The Customer and the Supplier acknowledge that the Customer is the grantor and the Supplier is the holder of a Purchase Money Security Interest ("PMSI") by virtue of this Agreement and/ or the PPSA. The Customer agrees to do anything that the Supplier reasonably requires to ensure that the Supplier has at all times a continuously perfected security interest over all of the Supplier's products. The Customer agrees that these terms and conditions create a PMSI in the products (and their proceeds) supplied presently and in the future by the Supplier to the Customer.
- b) The Customer agrees to do all things necessary and execute all documents reasonably required to register the PMSI granted by the Customer under these terms and conditions and to ensure that the Supplier acquires a perfected security interest in the products under the PPSA.
- c) This PMSI does not lose its priority as a result of the renewal, refinance, consolidation or restructure of the subject matter of these terms and conditions and any purchase money obligations.
- d) To the extent permitted by the PPSA, these terms and conditions exclude any provisions of the PPSA which may be excluded in the Supplier's discretion and which would otherwise confer rights on the Customer.
- e) The Customer's right to possession of goods still owned by the Supplier under these terms and conditions shall cease if:
  - i. the Customer being an individual, commits an act of bankruptcy,
  - ii. the Customer being a company, circumstances arise where a receiver, manager, administrator or controller becomes entitled to take possession of any of its assets, any proceedings are instituted for winding up, or the Customer entering into a Deed of Company Arrangement,
  - iii. the Customer ceasing or threatening to cease conducting business in the normal manner or applying for deregistration or receives a deregistration notice,
  - iv. any cheque the Customer provides to the Supplier is dishonoured for payment,
  - v. the Customer failing to comply with any demand for payment issued by the Supplier,
  - vi. the Customer breaching any of the terms and conditions contained in the Agreement and/or are in default of any other agreement between the Supplier and the Customer.
- f) The Customer expressly and irrevocably agrees that the Supplier is entitled to enter any premises where the products supplied by the Supplier are located to repossess, remove and sell such goods. The Customer (its successors and assigns, including any external manager or administrator) shall not object to the Supplier, or its agents, entering any premises for the purpose of this clause and agrees to indemnify and keep the Supplier indemnified in respect of any claims, actions and costs that may arise against the Supplier in relation to the removal, repossession and sale of the products pursuant to these terms and conditions including any claims brought by third parties.
- g) The Customer agrees not to change the Customer name or undertake any changes to any documents that the Supplier has registered, requires to be registered or are capable of being registered without our prior written consent of the Supplier.
- h) The Customer will not (except with the Supplier's written consent) allow to be, or be liable to become, perfected or attached in favour of any person, a security interest or transitional security interest in any of the monies from time to time payable to the Supplier (if any) or otherwise, or in products supplied by the Supplier and whether to a provider of new value or otherwise.
- i) The Customer waives the right to receive a copy of the verification statement confirming registration of a financing statement or financing change statement relating to the security interests under this Agreement. The Customer agree that the Customer and the Supplier contract out of and nothing in the provisions of Sections 95, 96, 117, 118, 121(4), 130, 132(3)(d), 132(4), 142 and 143 of the PPSA shall apply to this Agreement.
- j) The Supplier may allocate amounts received from the Customer in any manner we determine, but in default will apply same first to payment of any unsecured amount owing to the Supplier, next as to any reasonable enforcement expenses and then as to any secured balance owing to the Supplier.
- k) The Customer agrees to reimburse the Supplier for all costs and/or expenses incurred or payable by the Supplier in relation to registering, maintaining or releasing any financing statement or financing change statement under this Agreement.
- l) The Supplier may assign or transfer this Agreement and/or any security under the PPSA to a related body corporate at any time by notice to the Customer. A party must not otherwise assign or transfer the benefit or obligations of this Agreement without the prior written consent of the other party, not to be unreasonably withheld.

### 3.12. DELIVERY

Any delivery date or time given will be on the basis that it is an estimate. The Supplier is not liable for non-delivery or late delivery. Failure to deliver goods on time does not confer any right of cancellation or refusal of delivery on the Customer or render the Supplier liable for any loss or damages. The Customer will not be relieved of its obligation to accept or pay for Products by reason of any delay in delivery or any other cause whatsoever not expressly specified in these General Conditions of Sale. The Supplier's obligation to deliver will be discharged on arrival of the Products at the Customer's nominated delivery destination, nominated transport company, nominated agent or the address appearing on the invoice. The Customer must unload the Products on arrival, provided that if the Customer is unable or unwilling to accept physical delivery of the Products when they are ready for delivery, the Supplier has the right to both charge a fee for any delay experienced and the fees for arranging for the storage of the Products at the risk and cost of the Customer including all transportation, storage and other consequential costs. The Supplier may, at its discretion, make and invoice partial deliveries and each partial delivery will be a separate sale pursuant to these General Conditions of Sale. Products in transit not on the Supplier's vehicles are transported at the Customer's risk, with insurance being the Customer's responsibility. It is the responsibility of the Customer to examine all Products on receipt for shortages or breakages. The Supplier will not be liable for any misdelivery, shortage or damage unless the Supplier receives details in writing within seven (7) days of the date of delivery of the Products.

### 3.13. RETURNS

No returns are permitted except for an error or non-conformity (eg. defects, damaged Products, incorrect quantity or wrong product type) for which the Supplier is responsible, in which case the following conditions apply:

- a) Products may not be returned, except with the Supplier's express consent in writing, such as on a return docket form;
- b) returns are subject to a handling/restocking charge of 20% of the invoice price;
- c) the Supplier will pay the return freight costs and will credit the Customer's account on receipt of undamaged Products;
- d) the Products must be returned properly packed and via a transport method which must be discussed and agreed and with any related brochures and instruction materials in as new condition as is reasonable possible in the circumstances; and
- e) Invoice number(s) must be quoted on return documents.

### 3.14. DEFAULT IN PAYMENT

If the Supplier has not received or been tendered the whole of the payment for an invoice, or the payment has been dishonoured, the Supplier will have: (a) a lien on the Products; (b) a right to retain the Products while the Supplier is in possession of them; (c) a right to stop the Products in transit whether or not delivery has been made or ownership has passed; (d) a right to suspend the Supplier's performance of any of its obligations under these General Conditions of Sale; and (e) a right to resell the Products and if in the reasonable opinion of the Supplier they cannot be resold then the right to dispose of the Products. Each of these remedies will remain in force for the Supplier despite the commencement of proceedings or judgement for payment of the relevant invoice. The Supplier is not liable to the Customer for any loss or damage the Customer suffers because the Supplier exercised its rights under

this clause. As regards any default by the Customer in payment of any invoice, the Customer indemnifies the Supplier against all claims, demands, liabilities, losses, damages, costs and expenses (including legal and accounting costs and disbursements on a full indemnity basis and collection expenses and commissions of mercantile agents).

### **3.15. WARRANTY**

To the full extent permitted by law, all warranties, both express and implied, and whether written or oral are disclaimed as to the Good's description, quality, performance or fitness for its purpose. The entire risk as to the results and performance of the Products is assumed by the Customer. Each of the Products is supplied "as is" and the Customer relies on its own skill and judgment in deciding to acquire and/or use them for any application or purpose. The Customer has received no promise, guarantee, representation, warranty or undertaking regarding the profitability of or any other consequence or benefit to be obtained from use of the Products, except those expressly specified in these General Conditions of Sale. This clause does not exclude, limit or modify remedies that may be available under Australian Consumer Laws.

### **3.16. DAMAGED PRODUCTS**

A credit will be issued for damaged Products for which proof is supplied. Damaged Products must be reported within 24 hours of the date of receipt of the relevant order of Products otherwise no remedy will be applicable.

### **3.17. STORAGE OF PRODUCTS**

Until the Supplier is paid in full by the Customer: (a) the Customer must keep the Products at its own expense in safe custody and stored separately from any other stock; and (b) the Customer must not pledge, mortgage, charge or part with the Products.

### **3.18. LEGAL TITLE AND RISK**

Until payment has been made in full to the Supplier: (a) legal title to the Products remains the property of the Supplier; and (b) the Customer will be in possession of any delivered Products solely as a bailee for the Supplier. Risk in the Products pass to the Customer on delivery of them to the Customer or collection of them by the Customer's agent or courier, as the case may be.

### **3.19. CONDITIONAL SALES**

Notwithstanding that the property in the Products has not passed to the Customer, the Customer may resell the Products in the name of the Customer but only as agent for the Supplier and may deliver the Products to the buyer but only on terms and conditions which do not prejudice the Supplier's ability to obtain the sale proceeds of them. Such sale proceeds must be held by the Customer in trust for the Supplier until all sums due from the Customer to the Supplier are received by the Supplier.

### **3.20. REQUIRED NOTICE OF CHANGE OF OWNERSHIP**

The Customer must give the Supplier written notice within seven days of a change to the ownership of the Customer's business or a change to his/her/its business structure. If such notice is not given, the Customer remains liable for outstanding balances granted after any changeover or transfer of ownership.

### **3.21. REQUIRED NOTICE OF CHANGE OF CUSTOMER'S DETAILS**

The Customer must promptly, diligently and legibly give written notice to the Supplier of all changes to particulars set out in the Applicant's Details section of the Application, including changes to contact details and representatives. If such notice is not given, the Customer remains liable for any consequent errors and costs arising from them.

### **3.22. CONSEQUENCES OF INSOLVENCY**

If the Customer becomes, threatens to become or is in jeopardy of becoming subject to any form of insolvency administration; passes a resolution for winding up; becomes unable in the Supplier's opinion to pay its debts as and when they fall due; becomes bankrupt, is the subject of a bankruptcy petition or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit:

- a) the Supplier may by notice in writing immediately terminate these General Conditions of Sale;
- b) all amounts owing to the Supplier by the Customer, whether or not due for payment, immediately become payable;
- c) the Customer immediately ceases to have any right to sell supplied but unsold Products;
- d) the Customer must immediately place under the control and at the disposal and repossession of the Supplier all supplied but unsold Products and the Supplier will have all rights, title and interest to those Products without encumbrance; and the Supplier may where necessary use reasonable force to liberate and take possession of those Products;
- e) where those Products are held in a warehouse or other place outside the control of the Customer then the Customer will be treated as having hereby irrevocably appointed the Supplier as the Customer's attorney to sign, execute, deliver, record and do all acts and things and in the name and in the favour of the Supplier in respect of deeds, agreements and documents necessary, proper or convenient in such attorney's opinion to secure, convey, grant, perfect and otherwise deal with the release of those Products, whether or not the warehouse or any third party has money outstanding and to be paid by the Customer or its principals; and
- f) the Supplier has the right to cancel all or any part of any order of the Customer which remains unperformed in addition to and without prejudice to any other remedies available to the Supplier.

### **3.23. DEBT RECOVERY COSTS**

Costs incurred by the Supplier in demanding, collecting or enforcing judgements for money due (including, without limitation, legal costs on a full indemnity basis and collection expenses and commissions of debt collection agents) must be paid by the Customer.

### **3.24. REFUSAL OF SUPPLY**

The Supplier may refuse to supply further Products, without giving prior notice. The Supplier is not liable for loss or damage if it refuses to supply.

### **3.25. INTERPRETATION**

Headings in these General Conditions of Sale are for convenience and have no effect on interpretation. Where a time is specified it is critical or of the essence of these General Conditions of Sale. No rules of construction apply to the disadvantage of one party on the basis that it offered or drafted these General Conditions of Sale. If the Customer comprises more than one person then his/her/its rights are for the benefit of them jointly and separately and his/her/its obligations and liability to the Supplier is to be joint and separate.

### **3.26. TERMINATION, CONTRACT CONTINUITY AND GOVERNING LAW**

The Supplier may terminate these General Conditions of Sale at any time immediately on written notice to the Customer. If the Supplier develops revised general conditions of sale and the Customer accepts them, then they immediately supersede these General Conditions of Sale. New South Wales law governs these General Conditions of Sale. A dispute that goes to court must go to a New South Wales court.