

TERMS AND CONDITIONS OF TRADE

1. All accounts unless otherwise agreed in writing shall be paid upon delivery of the goods and/or upon completion of the works undertaken or services rendered by the Company for the Applicant. Disputes and/or claims do not constitute grounds for non-payment of amounts other than those in dispute.
2. The Applicant cannot use the credit facility until it receives notice in writing from the Company stating that the facility has been granted and until then all accounts from the Company shall be on a cash basis upon delivery of the goods and/or completion of those services.
3.
 - a) Unless the Company agrees in writing to the postponement of payment of any monies owing to the Company by the Applicant interest shall be payable by the Applicant on the highest debt balance of each calendar month on monies owing by the Applicant to the Company calculated daily from the date the monies became due until the actual date of payment at a rate of 14% per annum provided that, the Company may, at any time serve on the Applicant a notice varying as from the future date specified therein the interest rate, and the interest rate shall be varied as therein provided from the date therein specified, being a date no less than seven (7) days after the date of service of such notice.
 - b) Payments received by the Company will be applied firstly in reduction of interest payable and accruing from month to month; and secondly in reduction of all other monies owing to the Company until such a time as all monies owing to the Company have been paid in full.
4. The Company may withdraw the facility at any time without notice or the Company may from time to time or at any time increase or decrease the limit (if any) of the facility provided without notice to the Applicant or the Guarantor (if any).
5. All risks in any goods ordered by the Applicant shall be deemed to pass to the Applicant from the time the goods are loaded or delivered by the Company to a courier or carrier consigned to the Applicant but otherwise:-
 - i) the Applicant hereby acknowledges that the goods supplied by the Company shall remain the property of the Company until the Company receives payment for the same.
 - ii) the Company hereby agrees to allow the Applicant to deal, sell or trade with the goods in the normal course of business and for the Applicant to retain the sale proceeds of such sale or dealing provided that the Applicant adheres to the terms and conditions of the Agreement.
6. 6)Any legal costs, stamp duties or any other expenses whatsoever incurred by the Company in respect of the Application, agreements, guarantees, securities or other documentation required by the Company or other costs reasonably incurred by the Company in consequence of this Application and any other expenses incurred in respect of opening and maintaining any account in the name of the Applicant together with any collection costs, dishonoured cheque(s) fees, legal costs, whether charged on scale or on any other basis incurred, shall be paid by the Applicant on demand.
7. If the Applicant:
 - a) Defaults in the due and punctual observance of all or any of his obligations under any contract arising out of this Application; or
 - b) being a person, dies, commits an act of bankruptcy; or
 - c) being a company, takes or shall have taken against it any action for its winding up placement under Management, Administration and/or Receivership then the company without prejudice to any rights or remedies open to it may:
 - i) treat as discharged all or any obligation arising from any agreement with the Applicant;
 - ii) retain any security given or monies paid by the Applicant or available through the enforcement of any guarantee, security or bond and apply this in reduction of any sum which may be lawfully recovered by the Company;
 - iii) reserve the right to enter upon the Applicant's premises or elsewhere to take possession of and remove any goods for which full payment has not been received. The legal and equitable interest and title in the said goods shall therefore not pass until full payment has been received by the Company.

- iv) take such steps as it may deem necessary to mitigate the damages suffered including the putting to use, hiring out, sale or disposal of any goods supplied or to be supplied under the contract and its possession.
8. Should there be any variation to any of the information supplied by the Applicant to the Company or in the structure of the Applicant's business (such as conversion to or from a company or trust) the Company shall forthwith be notified in writing by the Applicant. Unless notification of such variation or change is given and accepted in writing by the Company the original Applicant and those persons who signed as Guarantors on this Application Form shall remain liable to the Company as though any goods or services supplied by the Company were supplied to the original Applicant.
9. The Company shall not be deemed to have waived any of the terms or conditions of this Application or agreed to any variation thereof unless it has done so expressly in writing and signed by the Company.
10. Where there is any inconsistency between the terms and conditions of this Application and any subsequent agreement for the supply of goods, work or materials by the Company, any such subsequent agreement shall be read down to the extent necessary to give full force and effect to the terms and conditions of this Application.
11. In these terms and conditions words in the singular shall be construed so as to include the plural and words in the masculine gender shall be construed so as to include every other gender.
12. Where the Applicant is a trustee:
 - a) the Applicant agrees to produce a stamped copy of the trust deed (with all amendments) if and when requested by the Company;
 - b) the Applicant warrants that it has full power and authority for the benefit purposes and objects of the trust to make this Deed on behalf of the trust and that it shall be bound by the terms of this Deed both personally and as trustee; and
 - c) the Applicant confirms that the trustees shall be liable for the account and that in addition the assets of the trust shall be available to meet payment of the account.
13. The Applicant hereby agrees that the facility hereby applied for does not extend to any transaction and the Applicant will not use the facility for any transaction which is or may be a "regulated contract" as that expression is defined in the Credit Act.
14. The Applicant and the Guarantor (if any) do hereby agree that for the purposes of securing the liability and obligations hereunder of each of them they do hereby charge with the due and punctual payment and the due and punctual and complete performance by each of them of all their liabilities and obligations hereunder all their real property both present and future and each of the Applicants hereunder. The continuing guarantee created herein shall remain in full force and effect and shall not be discharged until the expiry of not less than seven (7) months from the date of receipt of the last payment by the Company from the Applicant in satisfaction of any monies due by the Applicant made by or on behalf of the Applicant.
15. The Applicant and the Guarantor (if any) agree that the certificate of the Company or any person authorised by the Company to give the same shall be conclusive evidence as to the amount owing to the Company by the Applicant and Guarantor.
16. **THE COMPANY RESERVES THE RIGHT TO USE THE SERVICES OF A MERCANTILE AGENCY**
17. The Applicant and the Guarantor agree that the law of Western Australia shall apply to this Application and its/their dealings with the Company and the Applicant, Guarantor and the Company consent to the jurisdiction of the relevant Court in the said State.
18. The Applicant & Personal Guarantor hereby charges all land owned or in the future acquired by them to secure payment of all monies which are or may become owing under this agreement and consents to an absolute caveat being registered by the creditor at any time in respect of such land to protect its charge.