



APPLICATION FOR COMMERCIAL CREDIT ACCOUNT *

WITH THE ABOVEMENTIONED ENTITIES (HEREINAFTER JOINTLY AND SEVERALLY REFERRED TO AS "THE COMPANY")

**** Registered
Company Name:**

Trading Name:

ABN:

ACN:

Physical Address:

Postal Address:

Please Indicate: Company Partnership Sole Prop Trustee Co ** see below

Telephone:

Facsimile:

Mobile Phone:

Email:

Builders License No:

Accounts Contact Name:

Nature of Business:

How long in this Business:

Purchase Order Number Required:

YES

NO

Estimated Monthly Purchases: \$

Full name and residential addresses of all the Directors/Partners/Proprietors: (Please attach a separate page if insufficient space)

Name

Residential Address

Home Telephone

Please provide a minimum of four trade credit references:

Company Name

Contact Name

Telephone No.

1.

2.

3.

4.

* The Company reserves the right to refuse credit to any Applicant without explanation.

** Special Note: if the Company acts as, or is part of, a Trust/Nominee company then the provision of personal guarantee/s from the Trust Beneficiary / Beneficiaries is required to process this application.

General Terms and Conditions of Sale and Supply

SUPPLY AGREEMENT

IN CONSIDERATION OF Luna & Valk Group Pty Ltd, A.B.N. 85 007 728 341, (**hereinafter referred to as 'the Company'**) providing commercial credit facilities to the party completing the application (**hereinafter referred to as "the Customer"**) annexed to these conditions:-

- (i) The Customer acknowledges and agrees that the following applies to and forms part of any contract for the supply of goods by the Company and that these General Terms and Conditions take precedence over any terms and conditions which may be contained in any document provided by the Customer.
- (ii) The Customer hereby charges in favor of the Company all its estate and interest in any land and in any other assets, whether tangible or intangible, in which it now has any legal or beneficial interest or in which it later acquires any such interest with payment of all monies owed by the Customer and consents to the lodging by the Company of a caveat or caveats which note its interest in or over any such land or other caveatable property;
- (iii) The Customer acknowledges that where the Customer consists of more than one party or entity, liability shall be joint and several.

TERMS

These terms and conditions, including any Credit Limits set by the Company, are effective from the date of acceptance by the Customer and may be amended or superseded from time to time by notice given by the Company by any means.

1. Interpretations

- a. "Price" shall mean the cost of the Goods as agreed between the Company and the Customer subject to clause 5 hereunder.
- b. "Goods" shall mean all goods and/or services supplied by the Company to the Customer, or ordered by the Customer but not yet supplied and includes goods described on any quotation, invoice, purchase order or any other document including any recommendations and advice.

2. Jurisdiction

- a. This agreement shall be construed in accordance with laws of the State of South Australia and, where applicable, The Commonwealth of Australia and the Customer submits to the non-exclusive jurisdiction of the courts of South Australia.
- b. The Company shall have exclusive right to nominate the Court in which any legal action is to be commenced and conducted.

3. Offer and Acceptance

- a. Any request from the Customer to the Company for the supply of goods shall constitute acceptance of these general terms and conditions.

4. Goods

- a. Goods are as described on any quotation, invoice, purchase order or any other document provided to the Customer by the Company.

5. Price

- a. All prices shall be those referred to in the Company's price lists and / or arrangements and shall be subject to change from time to time without notice.

6. Payment Terms

- a. At the Company's sole discretion, a deposit may be required prior to the supply of any goods.
- b. Credit Account Customers are required to pay all amounts for purchases in full no more than 30 days from the end of the month during which any given purchase is made.
- c. In the event of a dispute, the complete undisputed portion of the account must be paid in accordance with the Payment Terms.
- d. Should it be considered necessary by the Company to incur legal and/or any other expenses, including any such expenses to any debt collection agency, in obtaining, or attempting to obtain, payment for any amount due by the Customer, the Customer shall be liable for all such expenses. The Customer acknowledges that those expenses may be calculated on a commission basis at a percentage rate of up to 25% of the amount due and expressly agrees to pay those expenses irrespective of the amount of work actually performed by the agency.
- e. Amounts received by the Company may be applied first against interest, charges and expenses.
- f. Interest on overdue amounts may be charged at a rate of 2.0 % per calendar month or part thereof and the Customer shall be liable for, and expressly undertakes to pay, all such interest.
- g. Any Customer having an overdue account will be precluded from participating in any special deals, discounts, bonus payments, redemptions, rebates and other incentive programs until their account is no longer overdue.
- h. Any payment made by or on behalf of a Customer which is later avoided by the application of any Statutory Provision shall be deemed not to discharge the Customer's indebtedness and, in such an event, the parties are to be restored to rights which each respectively would have had if the payment had not been made.

7. Statement of Debt

- a. A certificate signed by a Director, Secretary, Financial Controller or Credit Manager of the Company shall be prima facie evidence of the amount of indebtedness of the Customer to the Company.

8. Delivery

- a. The Customer shall be responsible for providing correct delivery details and for making all necessary delivery arrangements.
- b. The Company shall not be liable for any loss or damage, including consequential loss or damage, arising from delay in delivery or failure to deliver goods, either whole or in part, due to circumstances beyond its control.
- c. The failure of the Company to deliver shall not entitle either party to treat the contract as cancelled.
- d. Should the Customer leave it to the Company to arrange carriage for delivery of goods, then all and any additional costs associated with that delivery shall be added to the Price and shall be due and payable in accordance with the Payment Terms.
- e. The Company's obligation to deliver shall be discharged on arrival of the goods at the Customer's nominated delivery destination, nominated agent or carrier or the address appearing on the invoice. The Customer shall unload the goods upon delivery. If the Customer is unable or unwilling to accept physical delivery of the goods when the goods are ready for delivery, the Company shall be entitled to charge a fee for any delay suffered, or to arrange for storage of the goods at the risk and cost of the Customer including all transportation, storage and other consequential costs.
- f. The Company may, at its discretion, make and invoice partial deliveries and each partial delivery shall be a separate sale pursuant to these General Terms.

9. Defects

- a. The Customer shall inspect the goods upon delivery and notify the Company within 7 days of any defects, short deliveries or any failure to fulfill any quotation or order.
- b. The Customer will, within a reasonable time following delivery, grant the Company access to the goods in order to inspect for any alleged defects.
- c. Should the Customer fail to notify the Company within the specified period then the goods shall be deemed to be in compliance with the order and free from any defect whatsoever.

10. Warranty

- a. The Company warrants that goods supplied shall be of merchantable quality.
- b. The Company does not warrant that the goods are fit for a particular purpose and, except or unless otherwise stated herein, warranties relating to title, defects or conformity of the goods are expressly excluded.
- c. Any costs associated with the return of goods for the purpose of a warranty claim shall be the responsibility of the Customer.

11. Dishonored Cheques

- a. The Customer shall be liable for, and expressly undertakes to pay, all fees (including an Administration Fee in an amount to be set from time to time by the Company) for all costs incurred as a result of any cheque being dishonored for whatever reason.

General Terms and Conditions of Sale and Supply

12. Retention of Title

- a. Property in all the goods supplied shall remain vested in the Company and shall not pass to the Customer until all monies owing to the Company by the Customer together with all collection, repossession and / or legal costs incurred, have been paid in full.
- b. The goods, whether as separate chattels or as components, shall be stored in such a manner as to be clearly identifiable as the property of the Company until title has passed to the Customer.
- c. The Company may demand at any time until title has passed to the Customer that the Customer returns the goods or any part of them.
- d. In the event that the Customer defaults in the payment of any monies owing, the Company and its employees or agents shall have the right to enter without notice upon the Customer's premises or any other premises where the goods are known to be stored to repossess the goods and for this purpose the Customer shall grant reasonable access rights and the Company, its employees or agents shall be entitled to do all things required to secure repossession.

13. Risk

- a. Notwithstanding Retention of Title provisions as per clause 12 hereof, the risk in goods purchased shall pass to the Customer upon delivery to the Customer or its agent or a carrier nominated by the Customer.
- b. If any of the goods are damaged or destroyed prior to the title in them passing to the Customer, the Company is entitled, without affecting any other rights and remedies under any agreement, to any insurance proceeds payable for the goods.

14. Cancellation

- a. The Company may cancel the delivery of goods at any time before delivery by giving notice to the Customer by any means.
- b. The Company shall not be liable for any loss or damage, including any consequential loss or damage, arising from such cancellation.
- c. The Customer may cancel the delivery of goods at any time before delivery by giving notice to the Company by any means.
- d. In the event that the Customer cancels delivery of goods, the Customer shall be liable for any costs incurred by the Company up to the time of the cancellation including, but not limited to, any re-stocking fees incurred by the Company.

15. Limitation of Liability

- a. The liability of the Company to the Customer for any reason related to the performance of goods under this agreement shall be limited to the replacement or repair of the goods or the amount paid or payable by the Customer in respect of the particular goods.

16. The Commonwealth Trade Practices Act 1974

- a. The warranties, rights and remedies of the Customer as outlined in the Commonwealth Trade Practices Act 1974 are not intended to be compromised as a result of anything contained in these terms and conditions, except to the degree permitted by the Act.

17. Customer Disclaimer

- a. The Customer hereby disclaims any right to cancel the contract, or to seek compensation for loss or damages arising from any misrepresentation made by the Company or any related entity of the Company and their respective officers, employees, agents or contractors.
- b. The Customer acknowledges that the purchase of goods is made relying solely upon the Customer's own skill and judgment.

18. General

- a. The Company accepts no responsibility for changes in any law which may affect the supply of goods.
- b. Neither the Company nor the Customer shall be liable for any breach of any provision of any contract between them arising from an act of their respective God, natural disaster, terrorism, war or any other occurrence beyond the control of either party.
- c. The invalidity or unenforceability of any provision of these General Terms and Conditions shall not affect the validity or enforceability of the remaining provisions.
- d. Clerical errors are subject to correction and do not bind the Company.
- e. Headings are for ease of reference only and do not form part, or affect the interpretation, of these general terms and Conditions.

The Company is committed to protecting your privacy. Its policy is to comply with the National Privacy Principles for the handling of personal information as set out in the Privacy Act, 1988. In accordance with those principles, and with the Company's Privacy Policy, persons will be given access to their personal information upon request. The Company uses the types of personal information collected, including considering and assessing applications for employment, enabling it to supply customers with its products and services and for assessing Applications for Commercial Credit, managing accounts and, if necessary, assessing its risk in collecting debts. This information may be disclosed to the Company's associated or related entities, parties related to the Customer's employment (e.g. referees and others as set out in the Privacy Policy) contractors, other credit providers, whether or not an account is overdue and, if necessary, its risk insurers, debt collectors and credit reporting agencies. If all or part of the information requested is not provided, the Company may not be able to consider any application or to provide credit facilities. Customers who have any concerns about the Privacy Policy are requested to direct them to the General Manager, **79 South Tce Wingfield 5013**

I/We have read and understood this document and have been advised, and given opportunity, to seek independent legal advice.

Furthermore, I/we confirm that the information given in support of this application is true and correct.

In the event that the Customer is an incorporated entity, the person/s signing this agreement warrants that they are authorized to sign on behalf of the Customer and to bind the Customer in contract.

Print Name:

Signature:

Date:

Title:

Print Name:

Signature:

Date:

Title:

Print Name:

Signature:

Date:

Title:

Print Name:

Signature:

Date:

Title:

GUARANTEE AND INDEMNITY

IN CONSIDERATION OF Luna & Valk Group Pty Ltd, A.B.N 85 007 728 341, (hereinafter referred to as ‘the Company’) granting the Customer (as named in the Application for Commercial Credit Account and which forms a part of this document) trade credit, **I/WE GUARANTEE** payment to you of all monies and performance of all obligations including any past, present and future indebtedness or obligation by the Customer or any of us arising from any past, present or future dealing with you.

I/WE IDEMNIFY you against all loss or damage arising from any past, present or future dealing with the Customer or any of us.

I/WE AGREE:

- That this is a continuing guarantee and,
- That our liability under this guarantee is joint and several and will not be affected, waived or discharged by the reason of any time or indulgences granted by you or any grant to any of the guarantors of a release whether in whole or in part from any obligation contained in or implied by this guarantee and indemnity and,
- That our liability under this guarantee shall not be affected, waived or discharged by the Customer entering into a Deed of Company Arrangement (DOCA) or by the Company voting in favor of or against, or abstaining from voting, in relation to any proposal by the Customer to enter a DOCA and,
- That this guarantee becomes binding on such of us that sign this guarantee irrespective of whether or not all intended signatories execute this guarantee and,
- That the Company is entitled to recover against a Guarantor without having first taken steps to recover against the Customer or any other Guarantor and,
- That this guarantee may only be revoked as to future trading with the Customer and any notice of revocation may only be given by pre-paid registered mail delivered to **79 South Tce Wingfield 5013** and shall not become effective until the expiration of **14 days** from the date of posting.
- That any payment which is subsequently avoided by any law relating to insolvency shall be deemed not to have been paid and,
- That I/we sign in both our personal capacity and as Trustee of every Trust of which I/we are Trustee and/or a beneficiary and,
- To notify you of any change in the Customer’s structure or management including any sale or disposition of any part of the business of the Customer, any change in directorships, shareholders or management or change in partnership or trusteeship **within 7 days** of the date of any such change.

I/WE HEREBY CHARGE in your favor all our estate and interest in any land and in any other assets, whether tangible or intangible, in which we now have any legal or beneficial interest or in which we later acquire any such interest, with payment of all monies owed by the Customer or any of us and consent to the lodging by the Company of a caveat or caveats which note your interest in or over any such land or other caveatable property.

I/WE FURTHER AGREE that this agreement shall be governed by and construed in accordance with the laws of the state of South Australia and, where applicable, the Commonwealth of Australia, and I/WE submit to the non-exclusive jurisdiction of the courts of South Australia.

Notice of Disclosure of Your Credit Information to a Credit Reporting Agency

I/We acknowledge and give consent that the Company may make enquiries as to the credit and financial situation of any of us and further consent to the use of any information obtained as a result of those enquiries, including information disclosed in the Credit Application, as the Company reasonably sees fit from time to time, including but not limited to;

- passing the information on to a credit reporting agency
- passing the information on to a debt collector
- obtaining further personal information relating to any of us from another body for any use reasonably connected with provision of credit or the collection of debt subject to the provisions of the Privacy Act 1988.

GENERAL:

- “I” and “We” and “us” means each of the Guarantors jointly and severally.
- The invalidity or unenforceability of any provision of this Guarantee and Indemnity shall not affect the validity or enforceability of the remaining provisions.
- Clerical errors are subject to correction and do not bind the Company.

I/We have read and understood this document and have been advised, and given opportunity, to seek independent legal advice.

Guarantor Name (print)	Signature	Date
Witness Name (print)	Signature	Date
Guarantor Name (print)	Signature	Date
Witness Name (print)	Signature	Date
Guarantor Name (print)	Signature	Date
Witness Name (print)	Signature	Date
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