



APPLICATION FOR COMMERCIAL CREDIT ACCOUNT

To: Gunns Limited and any subsidiary or division, affiliates, associated companies and related entities and any successors and assigns (the definition "Gunns").

1 CUSTOMER

Name	
ABN	

2 APPLICATION

The Customer applies for a Credit Account and the Customer and its administrator, affiliates, related entities, successors and permitted assigns jointly and severally acknowledge receipt of a copy of the Application for Commercial Credit Account and the Terms and Conditions and agrees to be bound by Gunns' Terms & Conditions of Trade attached and as amended in all dealings with Gunns. NOTE: A copy of Gunns' Terms and Conditions of Trade can be obtained by contacting our customer support or found on Gunns' website: www.gunns.com.au. Gunns strongly recommend you take the time to read it carefully.

3 GOVERNING JURISDICTION

The State of	
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4 TOTAL CREDIT LIMIT REQUESTED

\$	
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5 MEANS & ABILITY TO PAY

The Customer warrants that the customer is solvent and has the future ability to pay all of the customer's debts as and when they fall due and that Gunns has absolute and unfettered discretion not to provide the Customer credit if Gunns for any reason whatsoever believes there is doubt about the Customer's ability to pay its debt.

6 ACCEPTANCE

Gunns will be deemed to have accepted this Application if it allows the Customer to trade with it on credit with any division or part of Gunns.

7 OTHER DIVISIONS

The Customer agrees that this Application relates to all dealings with Gunns.

8 PURPOSE

The Customer declares and warrants that products will be used for commercial purposes and not for the Customer's personal, domestic or household purposes.

IMPORTANT

Personal Consumers - By providing the declaration and warranty in item 8, you may lose protection under the Consumer Credit Code/Trade Practices Act etc. You should cross-out item 8 unless credit is predominantly for commercial or investment purposes.

9 CREDIT INFORMATION

The Customer and the person completing this application irrevocably authorises Gunns, its servants & agents to make such enquiries as they deem necessary to investigate the creditworthiness of the Customer and the person completing this application from time to time, including the making of enquiries with persons nominated as trade references, the bankers of the Customer and the person completing this application any credit provider or Credit Reporting Agency and including personal credit and consumer credit information (hereinafter called "the information sources"). The Customer and the person completing this application, hereby authorises the information sources to disclose to Gunns such information concerning the Customer and the person completing this application, which is within their possession.

The Customer and the person completing this application agree that the information provided on this application concerning the Customer & any relevant trading information arising from any dealings between the Customer or the person completing this application & Gunns may be disclosed to a Credit Reporting Agency or any other interested person.

10 To the fullest extent legally possible, all contracts made between Gunns and any Customer ("the Customer") relating to any products ("products") or transactions are subject to the attached Terms & Conditions of Trade ("these Terms") unless otherwise expressly agreed in writing.

GUNNS LIMITED | ABN 29 009 478 148

PO Box 572 Launceston Tasmania Australia 7250 | 78 Lindsay Street Launceston Tasmania Australia 7250

T 03 6335 5201 | Int T +613 6335 5201 | F 03 6335 5405 | Int F +613 6335 5405 | www.gunns.com.au

11 The person completing this application on behalf of the Customer hereby **REPRESENTS & WARRANTS** that the information set out hereon is true & correct & they are duly authorised to sign this Application on behalf of the Customer & **ACKNOWLEDGES** that Gunns will rely upon & be induced thereby to grant credit &/or to deal with the Customer. The person further warrants that the Customer has the ability to pay all of the Customer's debt as and when they fall due and that Gunns has absolute and unfettered discretion not to provide the Customer credit if Gunns for any reason whatsoever believes there is doubt about the Customer's ability to pay its debt.

PERSON COMPLETING THIS APPLICATION (Signed for & on behalf of the Customer)

Position	
Name	
Signature	
Date	

IMPORTANT NOTICE

Gunns Limited hereby advises that the information supplied on this document will be collected, used, disclosed and stored in accordance with the National Privacy Principles contained with the Privacy Amendment (Private Sector) Act 2000. If you require further information regarding our Privacy Policy, please contact the Company's Privacy Officer (08) 8721 2212.

A PARTNERSHIP/SOLE TRADER (Partners or Traders Full Name & Private Addresses)

Name	Address	Date of Birth	Private Telephone

B TRADING DETAILS

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C DATE BUSINESS COMMENCED

Number of Staff	
Number of Employees	

D COMPANIES

Company Name	
ACN Number	
Registered Office	
Postcode	

Directors

Name	Address	Date of Birth	Private Telephone

E BUSINESS DETAILS

Postal Address	
Business Address	
Delivery Address	
Telephone	
Facsimile	
Mobile	
Email	

Purchasing Contact

Name	
Address	
Telephone	
Facsimile	
Email	

Accounts Payable Contact

Name	
Address	
Telephone	
Facsimile	
Email	

Preferred Method of receiving invoices Fax Mail Email

F TRUSTS

Is the Customer involved or associated in any way with a Trust (whether Family Trust or Unit Trust)?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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G INSOLVENCY

Has the customer or any of its directors or partners been insolvent or involved in any way with an insolvency (Liquidation, Receiver, Administrator, Bankruptcy or Part X etc.)?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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H TYPE OF BUSINESS

Type of Business	
How long current owner?	
Government Instrumentality?	
Names of Related or Subsidiary Companies or Partnerships	
Are the Business Premises owned?	Yes <input type="checkbox"/> Name of registered proprietor No <input type="checkbox"/>
Are the Business Premises Leased?	Yes <input type="checkbox"/> Name of landlord No <input type="checkbox"/>
Do you currently trade with any other Gunns Division? If yes, which ones?	Yes <input type="checkbox"/> No <input type="checkbox"/> _____

I FINANCIAL DETAILS

Bank	
Branch	
Telephone	

Your Accountant

Name	
Address	
Telephone	
Facsimile	
Email	
Do you authorise us to obtain financial information from your accountant whenever we request it?	Yes <input type="checkbox"/> No <input type="checkbox"/>

Assets	\$	Liabilities	\$
Work in progress (yet to be invoiced)		Overdraft limit is	
Cash at Bank? On Hand		Current Overdraft value	
Debtors (moneys owed to you)		Creditors (moneys owed by you)	
Motor vehicles	1 -	Motor vehicle loans (payout)	
	2 -	Other loans (payout)	
	3 -	(payout)	
Real Estate Value		Mortgages (payout)	
Tools & Equipment		Personal Loans (payout)	
Plant & Machinery		Rental or Lease (payout)	
Stock		Taxation Liability	
Fixed Deposit etc		Other Liabilities	
Other Assets			
Total \$		Total \$	

Are there prior encumbrances over any of these assets?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If Yes, provide details		
Does any Director of the Applicant hold a security interest in any of the Applicant?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Have you previously been bankrupt or assigned your estate for the benefit of creditors?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If Yes, provide details		
Total Value of Yearly Contracts or Sales	\$	
Last year Turnover was	\$	
This year Turnover is Estimated to be approx	\$	
Estimated Monthly Purchases	\$	
Total Credit Limit Required	\$	

Bank Details

Bank	
Branch	
Account Number	

List All Land Owned By Applicant

Address	Value	Mortgage	Secured Amount Outstanding	Vol/Folio

J TRADE REFERENCES (must be similar value to level of credit sought)

Company	Address	Telephone	Years Traded with Them	Estimated Monthly Purchases

AGREEMENT TO GUARANTEE AND INDEMNIFY

To: Gunns Limited (“**Gunns**”)

- 1 We confirm** we have asked you to grant to the Customer a commercial credit account on certain terms and conditions as set out in the Application for Commercial Credit Account (“Account”).
- 2 In consideration** of Gunns agreeing to from time to time and at its absolute discretion:-
 - (a) grant to the Customer the Account
 - (b) and/or supplying products to the Customer
 - (c) and/or forbearing to sue the Customer (except where provided for by any statutory provision) for any payment currently due to Gunns, we unconditionally and irrevocably guarantee the due and punctual payment without any set-off, counterclaim, condition or deduction to Gunns of anything the Customer owes to Gunns under the Account and the 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 Gunns including any GST applicable thereto
- 3 We irrevocably** appoint Gunns and/or any solicitor of Gunns as our attorney in order to give effect to all obligations arising under this Deed.
- 4 We Indemnify** Gunns against all expenses and legal costs (on a solicitor/client basis) that Gunns may incur in enforcing this Deed. We further agree to indemnify Gunns against all loss or damage arising from any past, present or future dealing with the Customer or any of us.
- 5 We undertake** a personal liability to pay or do what we have guaranteed and further agree:-
 - (a) to pay to Gunns the amount Gunns certifies is payable, before being entitled to dispute whether that amount is payable
 - (b) any payment which is subsequently avoided by any law whether relating to insolvency or otherwise shall be deemed not to have been paid
 - (c) that we sign both in our personal capacity and as Trustee of every trust of which we are trustee
 - (d) to notify Gunns within 7 days of any change in the Customer’s structure, management or status including any sale or disposition of any part of the business of the Customer, any change in director, shareholder or management or change in partnership or trusteeship, any new charge, mortgage or security given to any party by the Customer, any involvement in any franchise, licensed business or network in any capacity
 - (e) that a certificate issued by Gunns stating any moneys owed by the Customer or us to Gunns or any related body corporate or under this Deed shall be conclusive evidence of such amounts owing by the Customer and us. We further agree that obligations under this Deed are principal obligations and Gunns is not required to take action or make demand first against the Customer or to marshal its security. We will also not prove or claim in the assets of the Customer in competition with Gunns under any circumstances statutory or, otherwise. If requested we will lodge a proof of debt and hold any distribution or payment received from the Customer on trust for Gunns.
- 6 Charge:** If requested we will immediately execute a charge, mortgage or other instruments in favour of Gunns, charging all our estate and interest in real properties and in any other assets (tangible or intangible) in which we now have any legal or beneficial interest whether personally or as Trustee or in which we later acquire any such interest, with payment of all monies owed to Gunns by the Customer or any of us. We consent to Gunns lodging caveat or caveats over our real properties to protect Gunns’ interest in the same. We will pay any stamp duty applicable to this Deed or any other instruments created pursuant to this Deed.
- 7 Other guarantees:** We agree to provide details of all guarantees and/or indemnities we have given or subsequently give to any party or any other fact or thing concerning the Customer or any of us, which Gunns ought to have knowledge of, in dealing with the Customer and us in reliance (in part or in full) upon this Deed.
- 8 Law:** The law applicable in South Australia will govern any claim or dispute between Gunns and the Customer or any of us. We further agree to submit to the non-exclusive jurisdiction of the Courts of any State or Territory of Australia or the Commonwealth of Australia elected by Gunns.

- 9 Liability:** The guarantee under this Deed is a continuing guarantee and our liability under it is joint and several, even if we are the only one to sign and whether or not any amount is extinguished or compromised in any way. Our liability is not affected or discharged by any conduct or event including without limitation the insolvency of any of us or of the Customer any change in the legal mental physical capacity, rights or obligations of any of us or of the Customer, or by Gunns releasing us or the Customer or giving us or the Customer time to pay or to perform any obligation, or by any later agreement to guarantee or indemnify and any other subsequent security taken or any Deed of Company Arrangement whether or not Gunns agrees. Nor is it affected or discharged by any inaction by Gunns on its rights either against the Customer or any of us. Further, Gunns may make any arrangement or compromise with any of us, obtain additional guarantees, indemnities or securities from any party or release or compromise with any Guarantor or party without affecting our liability to Gunns.
- 10 Credit Limit:** Any credit limit Gunns grants or applies to the Customer is at Gunns' discretion and will not limit our liability to Gunns. Gunns is not required to inform us of the amount of credit given to the Customer at any time.
- 11 Privacy & Disclosure:** Gunns may make any enquiries it deems necessary to investigate us and/or our creditworthiness including enquiry with our bankers, any credit providers and/or credit reporting agencies including without limitation personal credit and consumer credit information, any relevant asset and name searches ("the sources"). We authorise the sources to disclose anything concerning us which is in their possession. We agree that Gunns may disclose any information it has concerning us to the sources.
- 12 Severability:** Any part of anything herein shall be severable without affecting any other part hereof.
- 13 Current Debt:** We acknowledge that the Customer is indebted to Gunns in the sum noted in item C below and that Gunns' invoices are fair and reasonable for the products but acknowledge and agree that our liability to Gunns under this Deed is unlimited. A signed certificate from Gunns stating the amount of the monies payable or any other matter or fact is proof of that amount or other matter or fact as at the date unless we prove to the contrary.
- 14 Demand:** We agree that our liability to Gunns arises without any demand by Gunns upon the Customer or any of us.
- 15 Definitions:**
- (a) "We" and "us" means each of the Guarantors jointly and severally including the Guarantors' executor administrators and successors
 - (b) "Customer" means the party listed below as "the Customer" and any party or parties who acquire and/or conduct any part of the business of the Customer or have any beneficial interest therein until notice is given pursuant to clause 5(d) hereof and each member of any franchise/license business, network of which the Customer is a member including without limitation any entity formerly trading with Gunns, which had the same or substantially similar beneficial interests, control and/or trading name or trading address
 - (c) "Deed" means this Agreement to Guarantee & Indemnify
 - (d) "Related body corporate" has the meaning in the Corporations Act and includes Gunns Ltd ABN 29 009 478 148 and all of its subsidiaries.

IMPORTANT NOTICE

If you sign this document, you may be required to pay someone else's debts. You should ensure that you read and understand its terms. If necessary, seek independent professional advice.

THE PARTIES:

A GUNNS

Gunns Limited (ABN 29 009 478 148) and each of its subsidiaries, divisions, affiliates, associated companies and related entities and any successors and assigns.

B THE CUSTOMER

(and each subsidiary, division, affiliate, associated company, franchisor, franchisee, licensor, licensee and/or related entity and permitted assigns).

C CURRENT DEBT ACKNOWLEDGED

Existing Customers	\$
As at (date)	
New Customers	\$

D THE GUARANTORS

who have independently each read understood this document aware of the risks before signing it and voluntarily agree to enter into it elect to sign it and has not relied on any representation, warranty, promise or statement of Gunns or any person on behalf of Gunns or any related body corporate:

Guarantor 1

Name of Guarantor (please print)	
Address	
Signature	
Signature of Witness	
Print Name of Witness	
Date	

Guarantor 2

Name of Guarantor (please print)	
Address	
Signature	
Signature of Witness	
Print Name of Witness	
Date	

Guarantor 3

Name of Guarantor (please print)	
Address	
Signature	
Signature of Witness	
Print Name of Witness	
Date	

Guarantor 4

Name of Guarantor (please print)	
Address	
Signature	
Signature of Witness	
Print Name of Witness	
Date	

TERMS & CONDITIONS OF TRADE (8/2008)

To the fullest extent legally possible, all dealings between Gunns and any Customer relating to any products ("products"), services or transactions are subject to the following ("these Terms") unless otherwise expressly agreed in writing.

1 Payment

- a) The Customer agrees that a Certificate signed by a director, secretary or manager, or other authorised officer or representative for the time being of Gunns and stating the balance of monies due by the Customer shall be conclusive evidence of the indebtedness of the Customer as the date of the Certificate. b) Payment is to be by Electronic Funds Transfer, cash, cheque or bank cheque within 30 days from the end of month in which the relevant invoice was issued, without deduction offset or otherwise and irrespective of any dispute the Customer may have with Gunns and/or in respect of the products unless specifically agreed to in writing by Gunns.

2 Interest

Interest on overdue accounts will be charged, at Gunns' discretion, at the Penalty Interest Rates Act 1983 (Vic) rate, plus additional 2%.

3 Retention of Title

- a) The Customer agrees that legal and equitable title to the products is retained by Gunns and shall not pass until payment in full for the products and of all monies owed by the Customer to Gunns who reserves the right to take possession & dispose of products at any time until full payment
- b) The Customer grants Gunns and any person authorised by Gunns full leave, permission, irrevocable licence to enter without notice and at any time any property where any product is placed or stored and do all things necessary and use such force as is necessary in order to recover or retake possession of the products and the Customer further agrees to fully indemnify Gunns for any losses incurred or damages suffered by Gunns (including without prejudice to Gunns' right for damages generally for breach of contract) or the Customer or any third party as a result of Gunns' entry.
- c) Upon delivery the Customer accepts liability for the safe custody of the products & indemnifies Gunns for any losses relating thereto.
- d) The Customer agrees that a certificate purporting to be signed by an officer of Gunns identifying products as unpaid for shall be conclusive evidence that the goods have not been paid for & of Gunns' title thereto.
- e) Upon sale or disposition of any products prior to payment in full, the Customer agrees to deposit all proceeds in a separate bank account, not to mix proceeds with any other monies & will forthwith account to Gunns therefore notwithstanding that Gunns having at any time granted any credit facility &/or time to pay.
- f) Until payment in full the Customer agrees:-
- (i) to keep all products unpaid for as bailee and fiduciary agent for Gunns, properly and securely store them and in a manner which shows Gunns as owner and providing adequate insurance for the products
 - (ii) only to sell products in the usual course of its business
 - (iii) sale on terms or for less than cost shall not be "in the usual course".
- g) This clause 3 is not intended to create a charge over any products & shall be read down (but only to the extent necessary) to avoid creating a charge.
- h) The Customer agrees that products will be deemed at all times to be dealt with by the Customer on a "first in first out" basis for the purpose of all transactions between the Customer and Gunns.
- i) If the Customer uses products in any packaging, fabrication or manufacturing process, the Customer agrees to hold such part of the proceeds of sale of finished articles which equates to the invoiced price for the products used, upon trust for Gunns as bailee and fiduciary agent of Gunns until payment in full for those products and of all monies owed to Gunns.
- j) The Customer hereby agrees to accept this appointment as bailee and fiduciary agent of Gunns.

4 Limitation of Liability

These Terms set out the entire agreement between the parties in relation to their subject matter. The terms of the United Nations Convention on Contracts for the International Sale of Goods 1980 ("the Vienna Convention") and all other terms or conditions in relation to the subject matter of these Terms, whether implied by use, statute or otherwise, are expressly excluded including all rights and remedies conferred on the Customer, by statute, common law, equity trade, customs of usage otherwise.

- a) The Customer agrees to limit any claim it makes concerning any products to the cost of replacement of the subject products or their equivalent or to the provision of services again.
- b) Gunns shall not be liable for any claim, loss or expense arising after 14 days from date of delivery or at all once the products have been unpacked or otherwise used or applied, whichever first occurs, after which there shall be deemed to have been unqualified acceptance.

- c) Gunns will not be liable for any indirect, special or consequential loss or damage suffered or incurred by the Customer or any damage or loss arising in any way, whether due to a breach by Gunns of a contract made pursuant to these Terms or a negligent act or omission of Gunns or a breach of a statutory duty or obligation by Gunns or otherwise & the Customer acknowledges this express limit of liability & agrees to limit any claim accordingly. "Indirect, special or consequential loss or damage" means loss or damage arising from:-
- (i) a breach of contract
 - (ii) tort (including negligence)
 - (iii) under statute or
 - (iv) any other basis in law or equity including, but without limitation, the following:-
 - (a) loss of profits
 - (b) loss of revenue
 - (c) loss of production
 - (d) loss or denial of opportunity
 - (e) loss of access to markets
 - (f) loss of goodwill
 - (g) loss of business reputation, future reputation or publicity
 - (h) damage to credit rating
 - (i) loss of use; and
 - (j) indirect, remote, abnormal or unforeseeable loss, or any similar loss whether or not in the reasonable contemplation of the parties at the time of execution of the contract and/or in connection with claims made against the Customer by third parties, liquidated sums or liquidated damages.
- d) No statement or recommendation made or advice, supervision or assistance given by Gunns, its employees, agents, transport contractors or representatives whether oral or written must be construed as or constitutes a warranty or representation by Gunns or a waiver of any clause in these Terms. Gunns is not liable for loss or damage arising directly or indirectly from any act or omission to act arising directly or indirectly from any such statements, recommendations, advice, supervision or assistance.
- e) If the Trade Practices Act 1974 or any other legislation implies a condition or warranty into these Terms in respect of the products supplied and Gunns' liability for breach of that condition or warranty may not be excluded but may be limited: - in the case of supply of products, Gunns may do any one or more of the following: 1. replacing the products or supplying equivalent products; 2. repairing the products; 3. paying the cost of replacing the products or of acquiring equivalent products; 4. paying the cost of having the products repaired.
- f) No other term, condition, agreement, warranty, representation or understanding, whether express or implied in any way extending to, otherwise relating to or binding upon Gunns, other than these Terms, is made or given.

5 Exclusions

- a) Sample: No contract between Gunns & the Customer shall be or be deemed to be a sale by sample.
- b) If Gunns publishes material concerning its products & prices anything so published which is incompatible with these Terms is expressly excluded
- c) The Customer will rely on its own knowledge & expertise in selecting any products for any purpose and agrees that it does not rely on the skill or judgement of Gunns in relation to the suitability of the products for a particular purpose.
- d) If Gunns sells any products made or processed by another, it shall not be liable for any damage, claim or loss arising in relation thereto.

6 Returns

Any claims against Gunns must be made in writing and within 14 days of delivery of the product. Except as expressly provided herein, Gunns shall not be under any obligation to accept the return of any product supplied to the Customer. Products returned at the volition of the Customer will be at the Customer's expense and risk. Gunns may elect to take back product if the Customer can establish proof of purchase by providing Gunns with original invoice and provided the product is in as new & saleable condition & upon terms agreed. A re-stocking fee of not less than 20% of invoice value will apply.

7 Specific Orders

- a) Custom made or custom processed products or products acquired by Gunns specifically for the Customer will not be returnable.
- b) Such specific orders may be rejected by Gunns unless accompanied by a non-refundable deposit of at least 50% of the total order price.

8 Placement of Orders

The Customer agrees:-

- a) in the event of any dispute arising concerning any order (& including any question of identity or authority or any telephone, facsimile, e-mail or computer generated order) that the internal records of Gunns will be conclusive evidence of what was ordered in all respects
- b) each order it places shall be & be deemed to be a representation by it, made at the time that the Customer is solvent & able to pay all of its debts as & when they fall due
- c) failure to pay Gunns in accordance with these Terms shall be & be deemed conclusive evidence that the Customer had no reasonable grounds for making the representation referred to in 8.b) & that the representations were unconscionable, misleading and deceptive
- d) when any order is placed, the Customer shall inform Gunns of any material facts which would or might reasonably affect the commercial decision by Gunns to accept the order &/or grant credit in relation thereto & any failure to do so by or on behalf of the Customer shall create & be deemed to create an inequality of bargaining position, shall constitute & be deemed the taking of an unfair advantage of Gunns & to be unconscionable, misleading and deceptive.

9 Purchase Price

- a) All sales are made by Gunns at its ruling price at the time of delivery.
- b) Sales tax, GST, government imposts etc will be to the Customer's account.
- c) Gunns' price lists, invoices and statements exclude sales tax, GST & government imposts unless expressly noted thereon.
- d) The Customer will provide its tax file number, ABN and any information required for any GST or equivalent charges prior to any dealings.

10 Delivery

The Customer acknowledges & agrees that:-

- a) Gunns accepts no responsibility for (nor is it under a duty to) delivery but may elect to arrange delivery at its discretion & without any liability & at the Customer's costs (including without limitation Gunns' reasonable expenses arising from frustrated delivery) & risk in all things.
- b) Gunns reserves the right to charge for any delivery.
- c) The Customer shall be deemed to have accepted delivery & liability for the products immediately Gunns notifies the Customer that they are ready for collection or they are delivered to a carrier or to the Customer's business premises or site whether attended or not and the Customer must provide reasonable safe and proper access to any site specified for delivery.
- d) A certificate purporting to be signed by an officer of Gunns confirming delivery shall be conclusive evidence of delivery as shall any signed delivery docket
- e) Gunns will not be liable for delay, failure or inability to deliver.
- f) Once the Customer has been notified that products are ready for collection or delivery, the Customer agrees to pay all costs of Gunns in holding those products.

11 Products

- a) General: the Customer acknowledges that Gunns may from time to time update, modify, make substitution and/or alter any of its products or any component, program or raw material incorporated in or used in any way in forming any part of any products, as part of Gunns' ongoing business development, and agrees to accept current products in substitution, provided they are not materially different
- b) Gunns disclaims any responsibility or liability relating to any products:-
 - i) made to designs, drawings, specifications &/or procedures etc or with materials which are provided or approved, in part or full by or on behalf of the Customer
 - ii) utilised, stored, handled or maintained incorrectly or inappropriately.
- c) The Customer agrees to check all products for compliance with all relevant applicable standards & regulatory bodies before use, on-sale or application & to use, apply and on-sell products in accordance with all applicable standards, regulations & guidelines, with all Gunns recommendations & directions as well as with good trade practice.

12 Timber

The Customer acknowledges that Gunns' timber product has (inter alia) the following characteristics:-

- (i) it is a natural product and variations in colour texture and inherent quality occur;
- (ii) it is susceptible to exposure to the elements (sun, rain, temperature etc);
- (iii) it is susceptible to bending, warping, crushing, swelling and fungal growth if not stored or used properly;
- (iv) it is susceptible to damage and size variations which may be caused (inter alia) by relative humidity and/or moisture content;

- (v) may contain or be treated with poisons &/or potentially toxic chemicals (including formaldehyde, preservatives etc.) should be stored & worked upon in well ventilated areas & not burned except in a safe manner;
- (vi) product related dust & saw dust are inherently dangerous if inhaled.

13 Trusses

The Customer acknowledges and agrees to be bound by such terms and conditions as Gunns introduces into any contract between the Customer and Gunns relating to trusses in addition to these Terms. Where they are inconsistent with these Terms, these Terms will be read down to the extent necessary.

14 Other Terms & Conditions

No terms & conditions sought to be imposed by the Customer upon Gunns shall apply unless otherwise agreed to in writing by Gunns. If the Customer is provided with a rebate arrangement by Gunns then that rebate arrangement will form part of these Terms and any default of that rebate arrangement will be a breach of these Terms.

15 Recovery Costs

The Customer will pay the costs & expenses on a full indemnity basis incurred by Gunns and/or its solicitors, legal advisers, mercantile agents & any other parties acting on its behalf in respect of anything instituted or being considered against the Customer whether for debt, loss, damages, possession of any products, breach of these Terms or otherwise.

16 GST

The Customer agrees to pay for any applicable GST for the products.

17 Attornment

For the purpose of giving effect to the Customer's obligation in these Terms, the Customer hereby irrevocably appoints a director or any authorised representative of Gunns from time to time, as its attorney in all things.

18 Variation

Any variation or cancellation must be in writing.

19 Defaults

Upon any default or breach hereof by the Customer, Gunns may (inter alia) retain all monies paid &/or cease further deliveries & recover from the Customer all loss of profits arising &/or at its discretion take immediate possession of any product not paid for, without prejudice to any other of its rights & without being liable in any way to any party.

20 Severability

Any part hereof being a whole or part of a clause shall be capable of severance without affecting any other part of these Terms.

21 Customer Restructure

The Customer will notify Gunns in writing of any change in its structure or management including any change in director, shareholder, or management or change in partnership or trusteeship within 7 days of the date of any such change.

22 Jurisdiction

The Customer agrees that all contracts made with Gunns shall be deemed to be made in the State or Territory nominated by Gunns from time to time & agrees to submit to the jurisdiction of the appropriate Courts nearest the capital city of that State or Territory.

23 Credit Limit

If Gunns grants any credit facility or nominates any credit limit, this is an indication only of its intention at the time notwithstanding any other clauses in these Terms. Gunns can vary or withdraw any credit facility at any time at its discretion & for any reason & without any liability to the Customer or any other party, in which case all monies owing by the Customer to Gunns becomes immediately due and payable without notice by Gunns. Credit facilities granted, if any, are not transferable without the consent in writing of Gunns.

- (a) Activity Threshold: The Customer must for any 6 month period maintain minimum monthly order of \$3000 or any other amount specified by Gunns from time to time, failing which Gunns may at its absolute and unfettered discretion stop supplying the product to the Customer on credit.

24 Waiver

If Gunns elects not to exercise any of its rights whether in part or in full arising as a result of any breach of these Terms it shall not constitute a waiver of any rights of Gunns relating to any subsequent or other breach.

25 Notice

The Customer agrees that it will be deemed to have notice of any change to these Terms immediately they are adopted by Gunns & whether or not the Customer has actual notice thereof. The Customer shall be bound by any terms & conditions of sale adopted by Gunns immediately they are adopted & notwithstanding any other purported or pre-existing terms & conditions.

26 On-Sale

The Customer agrees that upon on-sale of any products, the Customer will incorporate these Terms (as mutatis mutandis applicable) into any such on-sale and to inform any third party involved of these Terms.

27 Indemnity

The Customer indemnifies Gunns against any claim for any costs, loss or damage arising from or related in any way to any contract between Gunns & the Customer or anything arising therefrom, or arising as a result of or subsequent to any breach of these Terms. If the Customer is a Trust Company it is hereby acknowledged and agreed that the Trustee(s) will be liable on the account and that the assets of the Trust will be available to meet payment of the account.

28 Insurance

The Customer agrees to insure Gunns from liability arising in any way; whether directly or indirectly as a result of any dealings Gunns has with the Customer, whether arising under any part of the Trade Practices Act or otherwise, which insurance will note the insured interest of both the Customer & Gunns.

29 Security for Payment

- a) The Customer agrees on request to charge in favour of Gunns;
 - (i) by way of a fixed charge on all its books of account, financial records, goodwill, documents of title & current & later acquired real property & intellectual property; &
 - (ii) by way of a floating charge, the whole of the Customers other undertaking, property & assets, with payment of all monies owed to Gunns.
- b) The Customer further agrees and consent to Gunns lodging a caveat to note its interest conferred by this Clause.
- c) Upon demand by Gunns, the Customer agrees to immediately execute a mortgage on terms satisfactory to Gunns to more particularly describe the security interest conferred by this Clause and should the Customer fail to do so then Gunns is entitled to use the powers conferred by Clause 17 above.

30 Forward Orders

If the Customer places a forward order the Customer agrees: a) to pay for so much of any order as is from time to time invoiced by Gunns; b) no delay or failure to fulfil any part of any order shall entitle the Customer to cancel or vary any order or delay or reduce any payment.

31 Force Majeure

Gunns will not be in breach of any contract as a result of Force Majeure. Force Majeure means any cause, events or occurrences beyond Gunns' reasonable control and includes strikes and lock-outs or any industrial action.

32 Insolvency

- a) If the Customer commits or is involved in any act of insolvency, it agrees that it is in breach of these Terms and that all monies owing by the Customer to Gunns becomes immediately due and payable without notice by Gunns.
- b) An act of insolvency is deemed to include bankruptcy, liquidation, receivership, administration, ceasing to trade or carry on business in the usual manner or the Customer is the subject of a winding up petition.

33 Abnormal payments

The Customer agrees to pay, if required, an administration fee of 2% (calculated on the amount paid) on any payment which is paid other than as provided in clause 1 hereof, which fee is agreed as the liquidated cost of processing such abnormal payments.

34 Supply

Notwithstanding any other provision of these Terms, it is a term of the contract made between the Customer and Gunns that Gunns has absolute and unfettered discretion to refuse to supply or delay in supplying products to the Customer (without liability) where:

- a) Products are unavailable or insufficient for any reason whatsoever.
- b) The Customer has failed to comply with terms on which Gunns has agreed to provide credit to the Customer.
- c) The Customer or a related corporation (as defined in section 50 of the Corporations Act 2001 as amended) of it has breached a contract with Gunns or a related corporation of it including these Terms.
- d) Gunns considers it necessary or desirable to do so for any reason at all.

35 Information

- a) The Customer agrees to from time to time on request by Gunns provide forthwith to Gunns such information as Gunns may request concerning the activities, financial position, standing or credit worthiness of the Customer, the proprietors or directors of the customer, any guarantor or any details in relation to any Trust if which the Customer is a Trustee.
- b) The Customer consents and grants to Gunns the authority to obtain from third parties any information Gunns requires pursuant to Clause 35(a).