

MYM TIMBER & HARDWARE PTY LTD (ACN 007 324 601)

1 - 5 Slater Parade, East Keilor, 3033
Tel (03) 9334 0888 Fax (03) 9331 6664
("THE SUPPLIER")

IMPORTANT NOTICE - THIS IS A LEGALLY BINDING DOCUMENT. YOU SHOULD OBTAIN INDEPENDENT LEGAL AND FINANCIAL ADVICE BEFORE COMPLETING AND EXECUTING IT.

COMPLETE ALL SECTIONS IN PARTS 1, 2 AND 3, THEN SIGN AND DATE IN ALL PLACES INDICATED

APPLICATION FOR CREDIT, CREDIT AGREEMENT, AND DEED OF GUARANTEE INDEMNITY AND CHARGE

PART 1 - APPLICATION FOR CREDIT

APPLICANT/CUSTOMER

COMPANY/BUSINESS/TRUST NAME			
ADDRESS			P/CODE
BH	MOBILE	FAX	AH
ACCOUNTS PAYABLE CONTACT PERSON			

DIRECTORS/OWNERS/PARTNERS

FULL NAME OF DIRECTORS/OWNERS/PARTNERS	PRIVATE ADDRESS	TEL. & DRIVERS LIC. NOS.

BUSINESS DETAILS

NATURE OF BUSINESS		
NO. OF YEARS ESTABLISHED	NO. OF EMPLOYEES	
ARE PREMISES OWNED? <input type="checkbox"/>	LEASED? <input type="checkbox"/>	
TERM OF LEASE		
ARE YOU		
• SELF-EMPLOYED? NO <input type="checkbox"/> YES <input type="checkbox"/>	ABN <input type="text"/>	
• A COMPANY? NO <input type="checkbox"/> YES <input type="checkbox"/>	ACN <input type="text"/> ABN <input type="text"/>	
• A BUSINESS/TRUST? NO <input type="checkbox"/> YES <input type="checkbox"/>	ARBN <input type="text"/> ABN <input type="text"/>	
HAVE YOU, THE COMPANY, OR BUSINESS TRADED WITH US BEFORE? NO <input type="checkbox"/> YES <input type="checkbox"/>		
MBA/HIA REG NO:	BUILDERS REG/LIC NO.:	
NAME OF BANK	BRANCH	TRADING ACCOUNT NO.
LIST OF ASSETS AND LIABILITIES:		
MAJOR LIABILITIES	MAJOR ASSETS	

TRADE REFERENCES - 3 CURRENT

NAME OF REFEREE	ADDRESS	TELEPHONE NO.

OFFICE USE ONLY

Applicant/Customer No.	Salesperson
Trading Terms	Area Code
Credit Limit \$	Type of Company
Application accepted and Authorised by	Date of Acceptance / /

TO: THE SUPPLIER

I/We request that you allow me/us credit for all goods and services, ("goods and services") sold and/or provided to me/us regardless of when or whether or not the goods and services have been delivered and in consideration of your so doing and in order to induce you, in your discretion, to grant such credit facilities to me/us, I/we represent and warrant to you that the particulars set out in this Application are true and correct in every particular and that I/We agree to be bound by the terms and conditions contained in this document and in relation to the *Privacy Act 1988*. I/We acknowledge notification by you of the matters set out in Clause A and agree that you may exercise your rights and do the things set out in Clauses B, C, D and E herein. I/We acknowledge and agree that this application shall be deemed accepted and binding upon endorsement to that effect by the Supplier in the section herein labelled "OFFICE USE ONLY" whether or not such endorsement is communicated to me/us.

Signature _____ Date _____
Print Name _____ Capacity or office held _____

PRIVACY ACT 1988

A. NOTICE OF DISCLOSURE OF YOUR CREDIT INFORMATION TO A CREDIT REPORTING AGENCY

Under Section 18E(8)(c) of the *Privacy Act 1988* ("the Act"), the Supplier is allowed to give a credit reporting agency personal information about your credit application. The information which may be given to an agency is covered by Section 18E(1) of the Act and includes:

- (i) Identity particulars (as permitted by the Privacy Commissioners determination issued under Section 18E(3)).
- (ii) The fact that you have applied for credit and the amount.
- (iii) The fact that the Supplier is a current credit provider to you.
- (iv) Payments, which become overdue more than sixty days, and for which collection action has commenced.
- (v) Advice that payments are no longer overdue.
- (vi) Cheques drawn by you which have been dishonoured more than once.
- (vii) In specified circumstances, that in the opinion of the Supplier, you have committed a serious credit infringement.

B. AGREEMENT THAT THE SUPPLIER MAY SEEK COMMERCIAL CREDIT INFORMATION

Pursuant to Section 18L(4) of the Act, if the Supplier considers it relevant to assess my/our application for personal credit, I/we agree to the Supplier obtaining a report about my/our commercial activities or commercial credit worthiness from a business which provides information about the commercial credit worthiness of persons.

C. AGREEMENT THAT THE SUPPLIER MAY SEEK CONSUMER CREDIT INFORMATION

Pursuant to Section 18K(1)(B) of the Act, if the Supplier considers it relevant to assess my/our application for commercial credit, I/we agree to the Supplier obtaining from a credit reporting agency a credit report containing personal credit information about me/us in relation to commercial credit provided by the Supplier.

D. AGREEMENT TO THE SUPPLIER SEEKING FROM OR GIVING TO OTHER CREDIT PROVIDERS DETAILS ABOUT MY/OUR CREDIT WORTHINESS

Pursuant to Sections 18N(1)(b) and 18N(1B) of the Act, I/we agree that the Supplier may give to and seek from any credit providers named in this credit application and any credit providers that may be named in a credit report issued by a credit reporting agency information about my/our credit arrangements. I/We understand that this information can include any information about my/our credit worthiness, credit standing, credit history or credit capacity that credit providers are allowed to give or receive from each other under the Act.

E. AGREEMENT TO THE SUPPLIER DISCLOSING TO A CREDIT REPORTING AGENCY

I/We agree to the Supplier disclosing that credit provided to you by the Supplier has been paid or otherwise discharged.

PART 2 – CREDIT AGREEMENT

TO: THE SUPPLIER

Should the Application for Credit be approved in favour of the Applicant/Customer whose name appears herein, the Applicant/Customer agrees to the due and punctual payment and performance by the Applicant/Customer of all its obligations and other liabilities in respect of all the contracts and agreements entered into with the Supplier and in addition agrees, undertakes and acknowledges as follows:-

- (a) To pay for all the goods and services purchased from the Supplier by the last day of the month following the month in which the goods and services are supplied, regardless of whether or not such invoice or statement is received by the Applicant/Customer, or within such other period of time which prior to or at the time the goods and services are provided is notified to the Applicant/Customer by the Supplier. Should the Applicant/Customer fail to pay for any goods and services in accordance with the provisions of this clause, then;
 - (i) interest shall accrue on all invoices outstanding at the rate prescribed by the *Penalty Interest Rates Act 1983*; and
 - (ii) the whole amount then owing by the Applicant/Customer to the Supplier in respect of the goods and services (including any amounts which would not otherwise be payable until a later date) shall become immediately due and payable at the option of the Supplier.

- (b) Save as provided for in this Credit Agreement, all sales and provision of goods and services to the Applicant/Customer are subject to the current trading terms and conditions of the Supplier as determined by the Supplier from time to time, provided that any change in the terms shall apply only to transactions taking place thereafter.
- (c) For the purpose of this Credit Agreement, a certificate signed by any manager or officer of the Supplier stating that any amount is the amount in which the Applicant/Customer is at that time in debt to the Supplier shall be conclusive evidence of the truth of its contents and binding upon the Applicant/Customer, unless there is a manifest error on the face of the certificate, provided that if in any circumstances the preceding provisions of this paragraph shall be ineffective at law, the certificate shall be prima facie evidence of the matters contained therein.
- (d) The Supplier may at any time and without assigning any reason therefor, refuse to extend any credit to the Applicant/Customer.
- (e) In the event that the Applicant/Customer;
 - (i) shall become bankrupt; or
 - (ii) being a company, an application shall be made to wind up the Applicant/Customer, or a receiver, a receiver and manager or an official manager shall be appointed in respect of the Applicant/Customer; or
 - (iii) shall make an arrangement or composition with the creditors of the Applicant/Customer, or attempt to make such an arrangement or composition; or
 - (iv) shall be unable to pay the debts of the Applicant/Customer as they fall due; or
 - (v) shall cease business; or
 - (vi) shall have execution levied against any of the assets of the Applicant/Customer,
 then all monies then owing to the Supplier (including any amounts which would not otherwise be payable until a later date or dates, shall become immediately due and payable.
- (f) All goods supplied by the Supplier shall remain the property of the Supplier until such time as the Supplier has received the full payment therefor, but subject to this limitation, the Supplier acknowledges that the Applicant/Customer may deal, sell or trade with the goods in the normal course of business providing that the Applicant/Customer shall pay to the Supplier the agreed price of the goods in accordance with the terms and conditions of this Credit Agreement and the trading terms and conditions of the Applicant/Customer and pending payment to the Supplier, shall set aside in a separate bank account the proceeds of sale obtained by the Applicant/Customer in respect of the goods. So long as the goods shall remain the property of the Supplier pursuant to this clause, the relationship between the Supplier and the Applicant/Customer shall be fiduciary and the Applicant/Customer shall hold the goods as bailee for the Supplier separately from other goods held by the Applicant/Customer. Notwithstanding the foregoing provisions of this clause, so long as the goods shall remain the property of the Supplier pursuant to the provisions of this clause, the Applicant/Customer shall maintain the goods in the same order and condition as when supplied by the Supplier to the Applicant/Customer and the Applicant/Customer shall bear all risk in respect of the goods. Should any of the events specified in paragraph (e) of this Credit Agreement occur so that all monies owing by the Applicant/Customer to the Supplier shall become immediately due and payable, then the Supplier shall have the immediate right of retaking possession of the goods wherever they may be without the necessity of giving any prior notice to the Applicant/Customer and the Applicant/Customer acknowledges and authorises the Supplier or its servants or agents to enter the premises upon which the goods shall be situated and to retake possession of the goods and further acknowledges that the Supplier shall not be liable for any costs, losses, damages or other expenses suffered by the Applicant/Customer or any third party in respect of such taking of possession and all such costs, losses, damages or other reasonable expenses incurred by the Supplier or on its behalf or by any third party shall be paid by the Applicant/Customer to the Supplier upon demand.
- (g) No failure on the part of the Supplier to exercise any of its rights, powers, discretions and remedies pursuant to this Credit Agreement or at law, or any delay on the part of the Supplier in exercising any such rights, powers, discretions and remedies, shall operate as a waiver thereof, nor shall any single or partial waiver of any such rights, powers, discretions and remedies preclude any further exercise thereof or the exercise of any other rights. Any waiver or consent by the Supplier under this Credit Agreement is effective only if in writing signed by the Supplier or by any manager or officer of the Supplier and then only to the extent expressly stated in such writing.
- (h) To indemnify the Supplier against all losses and expenses it may sustain as a result of any dealings with the Applicant/Customer and enforcing and/or attempting to enforce its rights against the Applicant/Customer including, but not limited to, legal costs incurred by the Supplier, on a full indemnity basis.

THE APPLICANT/CUSTOMER hereby agrees to each and every term and condition contained in this document and the above Credit Agreement and agrees to be bound thereby. The Applicant/Customer acknowledges having read and understood all such terms and conditions.

(if self employed trader, sign here)
 SIGNED BY THE APPLICANT/CUSTOMER

(if partnership, company or trust, sign here)
 SIGNED FOR AND ON BEHALF OF THE APPLICANT/CUSTOMER

Signature

Signature

Print Name

Print Name

Capacity or office held

DATED the

day of

20

PART 3 – DEED OF GUARANTEE, INDEMNITY AND CHARGE

TO: THE SUPPLIER

WE GUARANTEE to you payment of all monies and performance of all obligations by the Applicant/Customer or any of us arising from any dealing with you whatsoever.

WE INDEMNIFY YOU against all losses and expenses you sustain as a result of any dealing you have with the Applicant/Customer or any of us including, but not limited to, legal costs incurred by you, on a full indemnity basis.

WE AGREE:

- (a) To pay to you any amount certified by you as payable before we become entitled to dispute whether or not that amount is payable.
- (b) This Guarantee shall remain effective notwithstanding any conduct or event which, but for this clause may have the effect of releasing the Applicant/Customer or any of us.
- (c) This Guarantee is signed by us both in our personal capacity and as Trustees of each and every trust of which we are Trustees.

WE CHARGE in your favour all of our estate and interest in any land in which we now have any interest (or in which we later acquire any interest) with payment of all monies owed to you by the Applicant/Customer or any of us and all legal costs incurred by you, on a full indemnity basis, in the enforcement or attempted enforcement of the terms of this Guarantee, Indemnity and Charge, including the costs of registration and withdrawal of a Caveat.

WE CHARGE in your favour all of our estate and interest in any asset or trust asset in which we now have any interest (or in which we later acquire any interest) with payment of all monies owed to you by the Applicant/Customer or any of us, and all legal costs incurred by you, on a full indemnity basis, in the enforcement or attempted enforcement of the terms of this Guarantee, Indemnity and Charge, including the costs of registration and withdrawal of this Charge as required by law.

CONSIDERATION (WHERE APPLICABLE): You grant credit from time to time to the Applicant/Customer, or any of us AND forbear from taking any legal action for 30 days from the date hereof against the Applicant/Customer, or any of us in respect of any goods and services sold and/or provided both to date and in future.

PROPER LAW: We agree that this Deed of Guarantee, Indemnity and Charge and any claim and/or dispute between the Supplier, the Applicant/Customer or any of us at all shall be governed by Victorian law and subject to the jurisdiction of the appropriate Victorian Court.

DEFINITIONS:

- (a) "You" and "your" shall be a reference to each of the companies listed below as the Supplier jointly and severally.
- (b) "We" and "us" shall be a reference to each of the Guarantors and the Applicant/Customer jointly and severally.

DATED the _____ day of _____ 20____

THE PARTIES:

THE SUPPLIER MYM TIMBER & HARDWARE PTY LTD (ACN 007 324 601)
of 1 – 5 Slater Parade, East Keilor 3033

THE APPLICANT/CUSTOMER _____
of _____

SIGNED SEALED AND DELIVERED BY THE GUARANTORS

1. Name _____ of _____
Signature _____
Witness _____ Print name of witness _____
2. Name _____ of _____
Signature _____
Witness _____ Print name of witness _____
3. Name _____ of _____
Signature _____
Witness _____ Print name of witness _____