

Irwin Industrial Tool Company Pty Ltd
500 Princes Highway
Noble Park, Victoria 3174
(Locked Bag 5002 Noble Park Vic 3174)
Australia

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ABN: 30 005 543 966
www.irwin.com.au

APPLICATION FOR COMMERCIAL CREDIT ACCOUNT

I/We the Applicant/Buyer hereby apply for a Trading Account with Irwin Industrial Tool Company Pty Ltd ("Irwin Tools") in accordance with the Terms and Conditions endorsed herein.

Trading name (in full): _____ ACN #: _____

Registered name (in full): _____ ABN #: _____

Type of Entity (please circle): Company Sole Trader Partnership Trust Other
(If a Trust please include the first page & last page of your Trust Documents)

Delivery address: _____ P/Code: _____

Postal address: _____ P/Code: _____

Telephone No.: _____ Fax No.: _____ Email: _____

Date commenced trading: _____ Nature of business: _____

Are you a member of a Buying Group: Yes / No If so, which group: _____

Do you accept back orders: Yes / No Invoices to be emailed: Yes / No

Email Address: _____ Credit Limit Requested: \$ _____

Previous business experience (if established less than 3 years), _____

Contact for payment of Account: _____

Contact for price/range changes: _____

Trade References (three required)

1. Name _____ Telephone: _____ Facsimile: _____

2. Name _____ Telephone: _____ Facsimile: _____

3. Name _____ Telephone: _____ Facsimile: _____

Names and Details of Sole Trader / Partner(s) / Director(s)

1. Name: _____ Home Address: _____

Telephone: _____ Date of Birth: _____ Drivers Licence No.: _____

2. Name: _____ Home Address _____

Telephone: _____ Date of Birth: _____ Drivers Licence No.: _____

3. Name: _____ Home Address _____

Telephone: _____ Date of Birth: _____ Drivers Licence No. : _____

APPLICATION FOR COMMERCIAL CREDIT ACCOUNT

Registered Charges

Are there any registered charges recorded against either the property and/or assets of the Buyer?
(please circle) Yes / No

If yes, please provide details of all registered charges, the nature of the charges, and the persons to whom security has been provided
The following list can be taken as an indicative guide only, and is not exhaustive: land, buildings, plant, equipment, stock, debtors, etc.

Terms & Conditions of Sale

I/We the undersigned, having the authority to make this declaration, state that the above particulars are true and correct and that I/We have read the Terms and Conditions of Sale attached to this application, which include that payment in full is required by the last banking day of the month following the date of invoice and understand that, if Irwin Tools supplies goods or services, I/We will be bound by those terms and conditions unless the same are varied in writing.

Signed: _____ Position: _____

Name (please print): _____ Date: _____
(Director, Public Officer or Authorised Officer)

Signed: _____ Position: _____

Name (please print): _____ Date: _____
(Director, Public Officer or Authorised Officer)

Signed: _____ Position: _____

Name (please print): _____ Date: _____
(Director, Public Officer or Authorised Officer)

To Be Completed if the Applicant is a Sole Trader

Agreement that Irwin Industrial Tool Company Pty Ltd ("Irwin Tools") may seek consumer credit information (Section 18K(1)(b), Privacy Act 1988)

If Irwin Tools considers it relevant to assessing my/our application for commercial credit, I/we agree to Irwin Tools obtaining from a credit reporting agency a credit report containing personal credit information about me/us in relation to commercial credit provided by Irwin Tools.

Exchanging information with other credit providers (Section 18N(1)(b), Privacy Act 1988)

I/we agree to Irwin Tools obtaining personal information about me/us from other credit providers, whose names I/we may have provided for Irwin Tools or that may be named in a credit report, for the purpose of assessing my/our application for commercial credit made to Irwin Tools.

Agreement to a credit provider being given a consumer credit report to collect overdue payments on commercial credit (Section 18K 1(h) Privacy Act 1988)

I/we agree that Irwin Tools may obtain a consumer credit report about me/us from a credit reporting agency for the purpose of collecting overdue payments relating to commercial credit owed by me/us.

Signed: _____ Position: _____

Name (please print): _____ Date: _____

PERSONAL GUARANTEE AND INDEMNITY

This Guarantee and Indemnity is given by the person(s) named in the Schedule as the **Guarantors** (the "Guarantors", each a "Guarantor") in favour of the parties named in the Schedule as Irwin Industrial Tool Company Pty Ltd, ABN 30 005 543 966, ACN 005 543 966 ("Irwin Tools").

Introduction

- A. The Guarantors have asked Irwin Tools to supply goods and / or services ("the Supplies") to the persons named in the Schedule ("the Customer") and to extend (or continue to extend) credit to the Customer.
- B. Irwin Tools has agreed to the request of the Guarantors in consideration of their agreement as follows.

It is Agreed:

1. The Guarantors guarantee to Irwin Tools the punctual payment of the monetary liabilities of the customer (on any account and in any capacity whatsoever and including liabilities in respect of the Supplies) which are now owing, or may from time to time be owing by the Customer to Newell Rubbermaid Office Products ('the Debt').
The Guarantors acknowledge and agree that the Debt includes any legal and other costs and expenses incurred by in seeking payment from the customer or in enforcing this Guarantee and Indemnity against the Guarantors.
2. The Guarantors jointly and severally undertake, if the Customer fails to pay any part of the Debt when the same is due and payable, to pay the full amount of the Debt on demand by Irwin Tools and to keep Irwin Tools indemnified against any loss in relation to the Debt and by way for further security hereby charges in favour of Irwin Tools with payment of the Debt all our estate and interest in any land in which we now or might subsequently acquire a legal or beneficial interest and agree, upon request, to execute a registrable instrument charging such estate or interest in favour of.
3. The obligations of the Guarantors under this Guarantee and Indemnity are principal obligations and are not affected by:
 - (a) any variation which may be agreed by Irwin Tools and the Customer in respect of the terms on which the Supplies are supplied and paid for;
 - (b) any waiver, extension of time or indulgence given by Irwin Tools to the customer;
 - (c) any right or claim which the Customer may assert to resist making payment of any part of the Debt;
 - (d) any increase in the amount of the Debt; or
 - (e) any other act, omission, matter or thing whatsoever.
4. This Guarantee and Indemnity is a continuing obligation of each Guarantor for the amount of the Debt which may be owing from time to time and, binds the successors and assigns of the Guarantors and will not be affected by:
 - (a) the death, incapacity, bankruptcy of a Guarantor or the Customer;
 - (b) a Guarantor or the Customer which is a body corporate becoming an externally administered body corporate pursuant to the Corporation Laws; or
 - (c) any right on any account whatsoever which any Guarantor might have or acquire against the Customer, which the Guarantor agrees not to enforce until the Debt has been discharged in full.
5. If the obligation of any Guarantor in respect of any part of the Debt is unenforceable, that Guarantor's obligation in respect of the balance of the Debt will not be affected by such unenforceability.
6. If any payment or other transaction relating to or affecting the Debt is:
 - (a) void, voidable or unenforceable in part or in whole; or
 - (b) is claimed to be void, voidable or unenforceable and that claim is upheld, conceded or compromised in whole or in part; the liability of each of the Guarantors is the same as if:
 - (c) that payment or transaction (or the void, voidable or unenforceable part of it); and
 - (d) any release, settlement or discharge made in reliance on anything referred to in paragraph (b) above; had not been made and the Guarantors must immediately take all action and sign all documents necessary or required by Irwin Tools to pay to or restore to Irwin Tools the Debt in full.
7. If all or any of the Debt is:
 - (a) not recoverable from the Customer; or
 - (b) not recoverable from the Guarantors under this Guarantee and Indemnityeach of the Guarantors, as a separate and principal obligation, indemnifies Irwin Tools against any loss, liability, expenses or outgoing suffered, paid or incurred by Irwin Tools in relation to such amount and must pay Irwin Tools an amount equal to such amount.
8. This Guarantee and Indemnity binds each of the signatories as Guarantors notwithstanding that one or more of the persons named may never execute this document.
9. For the avoidance of doubt it is expressly acknowledged by the Guarantors that the Guarantor's obligations extend to and may include debts and other obligations of the Customer, which have arisen before the date of the Guarantee.
10. Each of the Guarantors:
 - (a) consents to Irwin Tools obtaining from credit reporting agencies, credit reports containing personal credit information for the purpose of assessing whether to accept each Guarantor as a guarantor for the obligations of the Customer;
 - (b) consents to Irwin Tools obtaining instructions from time to time for the purpose of renewing and assessing the Guarantor's commercial credit worthiness;
 - (c) consents to Irwin Tools providing to credit reporting agencies and credit providers other than personal credit information relating to each of the Guarantors; and
 - (d) acknowledges that if Irwin Tools agrees to extend credit to the Customer, the consents contained in this clause remain in force so long as this Guarantee and Indemnity remains in force.
11. Each of the Guarantors acknowledges having read the terms of this Guarantee and Indemnity and having been:
 - (a) advised to; and
 - (b) given the opportunity to, seek independent legal advice prior to execution.

Irwin Industrial Tool Company Pty Ltd
ABN 30 005 543 966 ACN 005 543 966

| | | | | |
|-----------------------------------|-----|--|-----|--|
| GUARANTORS | (1) | | (2) | |
| (Insert full names and addresses) | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

The Customer: _____

(Insert full name and address including ABN and ACN)

Signed the (Day) (Month) (Year)

| | | |
|--------------------------------|-----------------|---------------------------------|
| Signed by Guarantor (1) | | |
| In the presence of: | | Address of Witness _____ |
| Signature of Witness | | |
| Name of Witness | | |
| | (Block Letters) | |

| | | |
|--------------------------------|-----------------|---------------------------------|
| Signed by Guarantor (2) | | |
| In the presence of: | | Address of Witness _____ |
| Signature of Witness | | |
| Name of Witness | | |
| | (Block Letters) | |

| | | |
|--------------------------------|-----------------|---------------------------------|
| Signed by Guarantor (3) | | |
| In the presence of: | | Address of Witness _____ |
| Signature of Witness | | |
| Name of Witness | | |
| | (Block Letters) | |

TERMS AND CONDITIONS OF SALE IN AUSTRALIA

1. General & Interpretation –

In these conditions:

- 1.1 **'Buyer'** means the purchaser of any goods specified on a purchaser order to the Company, or as specified overleaf;
- 1.2 **'Goods'** means the products and, if any, services specified on a purchase order from the Buyer to the Company, or as specified overleaf;
- 1.3 **'Moneys Owed'** means all principal, interest, capitalised interest, default interest, fees, costs, expenses, charges and other moneys of whatever nature owed or payable by the Buyer to the Seller under this Agreement or the Security Documents or the loans referred to in the recitals hereto or otherwise howsoever;
- 1.4 **'Interest Rate'** means the penalty interest rate fixed under the Penalty Interest Rate Act 1983 (Victoria) calculated and payable daily, compounded from the due date until the invoice is paid in full.
- 1.5 **'the Company'** means Irwin Industrial Tool Company Pty Ltd, ABN 30 005 543 966, ACN 005 543 966.
- 1.6 Any Goods and all other products sold by the Company are sold on these terms and conditions, notwithstanding any inconsistencies which may be introduced in the Buyer's order or acceptance, unless expressly agreed to by the Company in writing.
- 1.7 **'PPSA'** means the *Personal Properties Securities Act 2009*.
- 1.8 **'PMSI'** means a purchase money security interest as defined by the PPSA.
- 1.9 "security interest", "purchase money security interest", "attached", "attachment", "perfected", "accession", "commingled" and all related terms have the meanings given them by the PPSA.

2. Pricing and Delivery

- 2.1 The price of goods is to be calculated by reference to the Company's current price list.
- 2.2 The prices and product specifications in published Company price lists are subject to alteration without notice, including the right to correct printing and clerical errors without notice.
- 2.3 The Buyer agrees that the delivery docket signed, whether by any employee of the Buyer or any other person signing for or on behalf of the Buyer, shall be conclusive evidence of delivery.
- 2.4 The Company will deliver FIS (free into store) to capital cities (excluding Darwin) for orders over the value of \$200.00 (excl. GST) or less than \$500.00 for Darwin.

3. Orders

- 3.1 An order for Goods constitutes an offer to purchase the Goods by the Buyer subject to the TERMS AND CONDITIONS OF SALE.
- 3.2 Orders accepted by the Company may not be cancelled or altered in whole or in part without the Company's written consent.
- 3.3 The Company may from time to time in our absolute discretion vary the TERMS AND CONDITIONS OF SALE.
- 3.4 The Company may at our absolute discretion decline any order either in whole or in part.
- 3.5 The Company reserves the right to specify the minimum order value that will be accepted from time to time. The Company may at the Company's absolute discretion, supply orders below the specified minimum order value and charge a handling fee, as determined by the Company, on all such orders.
- 3.6 The Company reserves the right to charge a \$10.00 handling fee on all orders of less than \$200.00 (excl. GST) or less than \$500.00 for Darwin.
- 3.7 In placing any order the Buyer expressly represents that the Buyer:
 - 3.7.1 is solvent; and
 - 3.7.2 has not committed an act of bankruptcy; and
 - 3.7.3 Knows of no circumstances which would entitle any creditor or secured creditor to appoint a receiver or which would entitle any creditor or shareholder to apply to the Court to liquidate the Company or exercise any other rights over or against the Buyers' assets.

4. Terms of Payment

- 4.1 All invoices are due and payable in full on the last banking day of the month following the date of invoice.
- 4.2 Should the Buyer fail to pay the Company's invoices by the due date then:
 - 4.2.1 the Company may charge interest on any overdue invoice at the penalty rate fixed under the Penalty Interest Rate Act 1983 (Victoria) calculated and payable daily, compounded from the due date until the invoice is paid in full, and;
 - 4.2.2 the Buyer shall pay all of the Company's costs and expenses (including legal costs determined as between solicitor/own client and mercantile agents fees) which may be incurred in the recovery or attempted recovery of the overdue amounts from the Buyer.
- 4.3 **Company's Rights of Set Off**
The Company may set off any amount owed by the Company to the Buyer from any amount due by the Buyer to the Company.
- 4.4 The Company offers a 1.5% discount for payments received within 14 days from date of invoice.

5. Goods and Services Tax ('GST')

- 5.1 Prices – all prices will be quoted exclusive of GST. Invoices will be issued in the prescribed form as set out by Section 195-1 of the 'A New Tax System (Goods and Services Tax) Act 1999 (Cth)' and the related imposition Acts of the Commonwealth (The GST Law).
- 5.2 Any discounts or other terms agreed between the Buyer and the Company will be calculated on and applied to the Purchase Price exclusive of GST.

5.3 Payment for GST

- 5.3.1 **Liability for GST**
If GST is imposed on any supply made by the Company pursuant to these TERMS AND CONDITIONS OF SALE ('Terms and Conditions'), the Buyer must pay to the Company, in addition to any consideration payable, or to be provided by the Buyer under the Terms and Conditions for supply, an additional amount for supply calculated by multiplying the prevailing GST rate by the consideration for the relevant supply payable, or provided, (without any deduction or set-off) by the Buyer under any other clause in these Terms and Conditions. Any amount payable is payable upon demand by the Company whether such demand is by means of any invoice or otherwise. 'GST' means the tax imposed pursuant to the GST law.
- 5.3.2 If any part of the Purchase Price is referable to both a Taxable Supply and anything that is not a Taxable Supply, the GST-exclusion portion of the purchase price shall be determined by the Company.
- 5.3.3 Where the Company determines on reasonable grounds that an adjustment is required to the purchase price, it will promptly issue any 'Adjustment Notes' that are prescribed by the GST law.

6. Guarantee

- 6.1 The Company's products are guaranteed against defects in material or workmanship subject to fair and proper usage.
- 6.2 All claims by the Buyer for defective goods are subject to the terms and conditions set out herein.
- 6.3 The Buyer is not authorised to issue replacements to their customers for the Company's products without prior approval of the Company.

7. Claims

- 7.1 Any claims by the Buyer for short or wrongful delivery of the goods MUST BE NOTIFIED TO THE COMPANY IN WRITING WITHIN (7) DAYS after delivery of the goods to the Buyer and any claim which the Buyer does not notify within the time aforesaid (time being of the essence) shall be deemed to have been absolutely waived.
- 7.2 Any other claims for adjustment to any invoice for any reason whatsoever must be made in writing within 30 days of delivery.
- 7.3 Any claims by the Buyer associated with trade promotions in relation to the Company's products must be made in writing within 3 months of completion of the trade promotion and must be accompanied by copies of all documents that are necessary to justify the Buyer's claim.

8. Return of Goods

- 8.1 The Company will not accept returns for credit without prior authorization.
- 8.2 Any Goods which the Buyer returns for credit, other than defective goods, will only be accepted if they are in the original packaging and in as new saleable order and condition.
- 8.3 If the Company authorises the return of Goods, the Goods must be sent freight pre-paid or otherwise, if approved by the Company, carried by the Company's nominated carrier.
- 8.4 The Company reserves the right, except for credits for defective goods, to charge a handling fee equal to 10% of the credit value and to deduct this fee from the credit amount..

9. Implied Terms

- 9.1 It is hereby acknowledged by the Buyer that, under applicable State, Territory, and Commonwealth law, certain conditions and warranties may be implied in the contract between the Company and the Buyer and rights and remedies conferred upon the Buyer and other parties in relation to goods or services which cannot be excluded, restricted or modified by agreement ("Non-excludable Rights"). The limitations below are subject to these Non-excludable Rights.
- 9.2 Subject to the clause 8.1, the Company disclaims all conditions and warranties expressed or implied, and rights and remedies conferred on the Buyer or other parties, by statute the common law, equity, trade, custom or usage or otherwise howsoever and all such conditions and warranties and such rights and remedies are hereby expressly excluded other than any Non-excludable Rights.
- 9.3 The Company's liability under s 74H of the Trade Practices Act 1974 (Cth) is expressly limited to a liability to pay or credit to the purchaser an amount equal to:
- (1) the cost of replacing the goods;
 - (2) the cost of obtaining equivalent goods; or
 - (3) the cost of having the goods repaired, whichever is the lowest amount.
- 9.4 Where so permitted the liability of the Company for a breach of a Non-excludable Right is limited, at the Company's option, in the case of goods, to the replacement or repair of the goods or the supply of equivalent goods or the cost of replacing or repairing the goods or of acquiring equivalent goods and, in the case of services, to the supplying of the services again or the payment of the cost of having the services supplied again.

10. Indirect Loss

Accordingly, subject to Clause 8, in no event shall the Company be liable (whether before or after discharge of the contract or otherwise) for any loss or damage to the Buyer howsoever arising including any loss or damage arising from or caused or contributed to by negligence of the Company, its servants or agents, nor shall the Company be liable for special, incidental, indirect or consequential loss or damage suffered by the Buyer as a result of a breach by the Company of its obligations or otherwise including but not limited to economic or moral loss, loss of profits or revenue or costs arising from such breach.

11. Indemnity

Subject to Clause 8, the Buyer shall indemnify and keep indemnified and hold the Company harmless from and against all liabilities, losses, damages, costs or expenses incurred or suffered by the Company, and from and against all actions, proceedings, claims or demands made against the Company, arising from one or more of the following:

- (a) As a result of the Buyer's failure to comply with any laws, rules, standards or regulations applicable in relation to the goods or the use of the goods;
- (b) As a result of any other negligence or other breach of duty by the Buyer; or
- (c) As a result of any compliance or adherence by the Company with any instructions of the Buyer in relation to the goods or their manner of fabrication.

12. Rights in relation to the goods

- 12.1 In connection with the goods while they remain the property of the Company, the Buyer agrees with the Company that:
- 12.1.1 The Buyer has no right or claim to any interest in the goods to secure any liquidated or unliquidated debt or obligation the Company owes to the Buyer;
 - 12.1.2 The Buyer cannot claim any lien over the goods;
 - 12.1.3 The Buyer will not create any absolute or defeasible interest in the goods in relation to any third party except as may be authorised by the Company;
 - 12.1.4 Where the Buyer is in actual or constructive possession of the goods:
 - 12.1.4.1 the Buyer will not deliver them or any document of title to the goods to any person except as directed by the Company; and
 - 12.1.4.2 it is in possession of the goods as a bailee of those goods and owes the Company the duties and liabilities of a bailee.
- 12.2 In connection with the goods, the Company states to the Buyer that:
- 12.2.1 the Company has the right to supply the goods to the Buyer;
 - 12.2.2 the activities of the Buyer in supplying the goods do not infringe the rights of the owner of the goods (where the Company is not the owner of the goods) and;
 - 12.2.3 if the goods are not owned by the Company, that the Company is authorised to supply the goods to the Buyer.
- 12.3 The Company and the Buyer agree that:
- 12.3.1 The property of the Company in the goods remains with the Company until the Company has been paid in full for the goods under all individual contracts for the supply of the goods between the Company and the Buyer;
 - 12.3.2 The Buyer is a bailee of the goods until such time as property in them passes to the Buyer and that this bailment continues in relation to each of the goods until the price of the goods has been paid in full;
 - 12.3.3 Pending payment in full for the goods, the Buyer:
 - 12.3.3.1 must not supply any of the goods to any person outside of its ordinary or usual course of business;
 - 12.3.3.2 must not allow any person to have or acquire any security interest in the goods;
 - 12.3.3.3 must insure the goods for their full insurable or replacement value (whichever is the higher) with an insurer licensed or authorised to conduct the business of insurance in the place where the Buyer carries on business and;
 - 12.3.3.4 must not remove, deface or obliterate any identifying plate, mark or number on any of the goods.
- 12.4 Despite clause 12.3, if the Buyer supplies any of the goods to any person before all monies payable by the Buyer have been paid to the Company (and have not been claimed or clawed-back by any person standing in the place of or representing the Buyer), the Buyer agrees that:
- 12.4.1 it holds the proceeds of re-supply of all the goods on trust for and as agent for the Company immediately when they are receivable or are received;
 - 12.4.2 it must either pay the amount of the proceeds or re-supply to the Company immediately when they are received or pay those proceeds into an account with a bank or a financial institution or deposit-taking institution as trustee for the Company;
 - 12.4.3 any accessory or item which accedes to any of the goods by an act of the Buyer or any person at the direction or request of the Buyer becomes and remains the property of the Company until the Company is paid in accordance with clause 12.3.1 when the property in the goods (including the accessory) passes to the Buyer and;
 - 12.4.4 if the Buyer fails to pay for the goods within the period of credit (if any) extended by the Company to the Buyer, the Company may recover possession of all the goods at any site owned, possessed or controlled by the Buyer and the Buyer agrees that the Company has an irrevocable licence to do so.

13. Withholding Supply

- 13.1 The Company reserves the right, irrespective of whether or not an order has been accepted and without notice to the Buyer, to withhold supply to the Buyer and the Company will not be liable for loss or damage resulting directly or indirectly from such action where:
- (a) the Company has insufficient Goods to fill the order;
 - (b) the Goods ordered have been discontinued; or
 - (c) the Company has determined, in the Company's absolute discretion, that credit should no longer be extended to the Buyer.

14. Modifications of labels

- 14.1 The Buyer may not, without the Company's written consent, alter, remove, or obliterate any labels which the Company attach to the Goods.

15. Performance and Representations

- 15.1 The Buyer acknowledges that neither the Company nor any person purporting to act on its behalf has made any representation or given any promise or undertaking which is not expressly set out in writing whether as to the fitness of the goods for any particular purpose or any other matter.

16. Default in Payment

- 16.1 The Company will treat any default by the Buyer in payment of any monies due to the Company as a breach of these terms and conditions. The Company reserves the right thereupon to cease work on the relevant order and all other orders placed by the Buyer and hold all the Buyer's work until the due payment or payments on all Moneys Owed are made. Recurring payments default may, at the Company's discretion, lead to the Buyer's account with the Company being closed and any further order placed by the Buyer and accepted by the Company will only be processed when prepaid for by bank cheque.

17. Waiver

- 17.1 Failure by the Company to insist upon strict performance of any term, warranty or condition of the Deed or these terms and conditions of sale shall not be deemed as a waiver thereof or of any rights the Company may have and no express waiver shall be deemed a waiver of any subsequent breach of any term warranty or condition.

18. Buyer's Acknowledgment

- 18.1 The Buyer acknowledges that the goods are not of a kind ordinarily acquired for private use or consumption but are acquired for business purposes.

19. Intellectual Property Rights

19.1 The Buyer warrants that any design or instruction furnished to the Company shall not be such as will cause the Company to infringe any intellectual property rights (including patents, registered designs, trademarks, copyright, confidential information and the like) in the execution of the Buyer's order and the Buyer agrees to indemnify the Company against any infringement or unauthorised use of the intellectual property rights arising out of the manufacture or use of the goods and it is especially agreed that the sale and purchase of goods does not confer on the Buyer any licence or rights under any intellectual property rights which is the property of the Company.

20. Notices

20.1 Any notice to be given by the Buyer to the Company shall be sent to the Company's address. No notice shall be deemed to have been given until it is actually received at such address.

21. Severance

21.1 It is agreed that if any provision of these terms and conditions should be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision hereof and each such other provision shall remain in full force and effect.

22. Deed under seal

22.1 It is acknowledged and accepted by the parties that the terms and conditions are assented to under seal.

23. Governing Law

23.1 The Deed and these terms and conditions of sale shall be governed by and construed in accordance with the laws of Victoria.

23.2 The Buyer agrees with the Company to submit to the non-exclusive jurisdiction of the Courts of Victoria and the Federal Court of Australia and agree that any legal proceedings may be heard in those Courts.

24. Entire Agreement

24.1 This Agreement and the Security Documents contain all the terms of the agreement between the parties and supersede all prior discussions and arrangements in relation to the subject of this Agreement in the event that there is any conflict between the provisions of this Agreement and the provisions of the Security Documents then the provisions of this Agreement shall prevail.

25. Conflicts

25.1 Where any conflict or inconsistency shall arise between any of the terms, conditions and provisions, whether express or implied, of this Agreement and those of any Security Document, the terms, conditions and provisions of this Agreement shall prevail unless otherwise determined by notice in writing to the Buyer by the Company.

26. Clerical Errors

26.1 We reserve the right to correct clerical errors without notification.

27. Personal Properties Securities Act 2009

27.1 The Buyer hereby acknowledges that these Terms and Conditions of Trade constitute a security agreement which creates a security interest in favour of the Company in all Goods previously supplied by the Company to the Buyer (if any) and all after acquired Goods supplied by the Company to the Buyer (or for the Buyer's account) to secure the payment from time to time and at a time, including future advances. The Buyer agrees to grant a "Purchase Money Security Interest" to the Company.

27.2 The Buyer acknowledges and agrees that by assenting to these terms the Buyer grants a security interest (by virtue of the retention of title clause in these Terms and Conditions of Trade) to the Company and all Goods previously supplied by the Company to the Buyer (or for the Buyer's account) and these terms shall apply notwithstanding anything express or implied to the contrary contained in the Buyer's purchase order.

27.3 The Buyer undertakes to:
27.3.1 sign any further documents and/or provide any further information (which information the Buyer warrants to be complete, accurate and up-to-date in all respects) which the Company may reasonably require to enable registration of a financing statement or financing change statement on the Personal Property Securities Register ("PPSR");
27.3.2 not register a financing change statement as defined in section 10 of the PPSA or make a demand to alter the financing statement pursuant to section 178 of the PPSA in respect of the Goods without the prior written consent of the Company;
27.3.3 give the Company not less than 14 days' written notice of any proposed change in the Buyer's name and/or any other changes in the Buyer's details (including by not limited to changes in the Buyer's address, facsimile number, email address, trading name or business practice);
27.3.4 pay all costs incurred by the Company in registering and maintaining a financing statement (including registering a financing change statement) on the PPSR and/or enforcing or attempting to enforce the security interest created by these Terms and Conditions of Trade including executing subordination agreements;
27.3.5 be responsible for the full costs incurred by the Company (including actual legal fees and disbursements on a solicitor and client basis) in obtaining an order pursuant to section 182 of the PPSA; and
27.3.6 the Buyer waives any rights it may have under sections 115 of the PPSA upon enforcement.

27.4 Pursuant to section 157 of the PPSA, unless otherwise agreed to in writing by the Company, the Buyer waives the right to receive the verification statement in respect of any financing statement or financing change statement relating to the security interest.

27.5 The Buyer agrees that immediately on request by the Company the Buyer will procure from any persons considered by the Company to be relevant to its security position such agreement and waivers as the Company may at any time require.

28. Security Interest

28.1 The Buyer gives the Company a Security Interest in all of the Buyer's present and after-acquired property in which Goods or materials supplied or financed by the Company have been attached or incorporated.

OFFICE USE ONLY

Account Manager: _____

Estimated monthly purchases: _____

Price level: _____

Buying group member: _____

Comments: _____