

CREDIT ACCOUNT APPLICATION

To Be Completed By Applicants - Please complete all sections and read the Terms and Conditions of Trade overleaf.

DATE: _____ REF No. _____

CUSTOMER'S TRADE NAME: _____

CUSTOMER'S FULL or LEGAL NAME: _____

Phone: _____ Fax: _____

Mobile: _____ Email: _____

Billing Address: _____ Physical Address: _____

State: _____ Postcode: _____ State: _____ Postcode: _____

COMMERCIAL CUSTOMERS ONLY

ABN/ACN Number: _____

Requested Credit Limit: _____ Date Established: _____

Contact 1: _____ Contact 2: _____

Position: _____ Position: _____

Phone: _____ Phone: _____

DETAILS OF OWNER (If Sole Trader) PARTNERS (If Partnership) OR DIRECTORS (If Company)

Full Name: _____ Full Name: _____

Home Address: _____ Home Address: _____

Home Phone: _____ Home Phone: _____

TRADE REFERENCES

Business Name 1: _____ Business Name 2: _____

Address or A/C No: _____ Address or A/C No: _____

Phone: _____ Phone: _____

Fax: _____ Fax: _____

I certify that the above information is true and correct and that I am authorised to make this application for credit. I have read and understand the TERMS AND CONDITIONS OF TRADE (overleaf or attached) of Coast To Coast Imports Pty Ltd which form part of, and are intended to be read in conjunction with this Credit Account Application and agree to be bound by these conditions. I authorise the use of my personal information as detailed in the Privacy Act clause therein. ***I agree that if I am a director or a shareholder (owning at least 15% of the shares) of the Customer I shall be personally liable for the performance of the Customer's obligations under this contract.***

SIGNED (COAST TO COAST): _____ **SIGNED (CUSTOMER):** _____

Name: _____ Name: _____

Position: _____ Position: _____

_____ ID: _____ DOB: _____

WITNESS TO CUSTOMERS SIGNATURE:

Signed: _____ Name: _____ Date: _____

Coast To Coast Imports Pty Ltd – Terms & Conditions of Trade

- 1. Definitions**
- 1.1 "Coast to Coast" shall mean Coast To Coast Imports Pty Ltd, its successors and assigns or any person acting on behalf of and with the authority of Coast To Coast Imports Pty Ltd.
- 1.2 "Customer" shall mean the Customer (or any person acting on behalf of and with the authority of the Customer) as described on any quotation, work authorisation or other form as provided by Coast to Coast to the Customer.
- 1.3 "Guarantor" means that person (or persons) who agrees to be liable for the debts of the Customer on a principal debtor basis.
- 1.4 "Goods" shall mean all Goods supplied by Coast to Coast to the Customer (and where the context so permits shall include any supply of Services as hereinafter defined) and are as described on the invoices, quotation, work authorisation or any other forms as provided by Coast to Coast to the Customer.
- 1.5 "Services" shall mean all Services supplied by Coast to Coast to the Customer and includes any advice or recommendations (and where the context so permits shall include any supply of Goods as defined above).
- 1.6 "Price" shall mean the Price payable for the Goods as agreed between Coast to Coast and the Customer in accordance with clause 4 of this contract.
- 2. The Commonwealth Trade Practices Act 1974 ("TPA") and Fair Trading Acts ("FTA")**
- 2.1 Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the TPA or the FTA in each of the States and Territories of Australia, except to the extent permitted by those Acts where applicable.
- 3. Acceptance**
- 3.1 Any instructions received by Coast to Coast from the Customer for the supply of Goods and/or the Customer's acceptance of Goods supplied by Coast to Coast shall constitute acceptance of the terms and conditions contained herein.
- 3.2 Where more than one Customer has entered into this agreement, the Customers shall be jointly and severally liable for all payments of the Price.
- 3.3 Upon acceptance of these terms and conditions by the Customer the terms and conditions are binding and can only be amended with the written consent of Coast to Coast.
- 3.4 The Customer shall give Coast to Coast not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer or any change in the Customer's name and/or any other change in the Customer's details (including but not limited to, changes in the Customer's address, facsimile number, or business practice). The Customer shall be liable for any loss incurred by Coast to Coast as a result of the Customer's failure to comply with this clause.
- 3.5 Goods are supplied by Coast to Coast only on the terms and conditions of trade herein to the exclusion of anything to the contrary in the terms of the Customer's order notwithstanding that any such order is placed on terms that purport to override these terms and conditions of trade.
- 4. Price and Payment**
- 4.1 At Coast to Coast's sole discretion the Price shall be either:
- (a) as indicated on invoices provided by Coast to Coast to the Customer in respect of Goods supplied; or
- (b) Coast to Coast's current price at the date of delivery of the Goods according to Coast to Coast's current Price list; or
- (c) Coast to Coast's quoted Price (subject to clause 4.2) which shall be binding upon Coast to Coast provided that the Customer shall accept Coast to Coast's quotation in writing within thirty (30) days.
- 4.2 Coast to Coast reserves the right to change the Price in the event of a variation to Coast to Coast's quotation. Any variation from the plan of scheduled works or specifications (including, but not limited to, any variation due to unforeseen circumstances, or due to fluctuations in the currency exchange rate) will be charged for on the basis of Coast to Coast's quotation and will be shown as variations on the invoice. Payment for all variations must be made in full at their time of completion.
- 4.3 At Coast to Coast's sole discretion payment for approved Customers shall be due thirty (30) days following the end of the month in which a statement is posted to the Customer's address or address for notices. Time for payment for the Goods shall be of the essence and will be stated on the invoice or any other forms. If no time is stated then payment shall be due seven (7) days following the date of the invoice.
- 4.4 Payment will be made by cash, or by cheque, or by bank cheque, or by credit card, or by direct credit, or by any other method as agreed to between the Customer and Coast to Coast.
- 4.5 GST and other taxes and duties that may be applicable shall be added to the Price except when they are expressly included in the Price.
- 5. Delivery of Goods**
- 5.1 At Coast to Coast's sole discretion delivery of the Goods shall take place where:
- (a) the Customer takes possession of the Goods at Coast to Coast's address; or
- (b) the Customer takes possession of the Goods at the Customer's nominated address (in the event that the Goods are delivered by Coast to Coast or Coast to Coast's nominated carrier); or
- (c) the Customer's nominated carrier takes possession of the Goods in which event the carrier shall be deemed to be the Customer's agent.
- 5.2 At Coast to Coast's sole discretion the costs of delivery are:
- (a) included in the Price; or
- (b) in addition to the Price; or
- (c) for the Customer's account.
- 5.3 The Customer shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery. In the event that the Customer is unable to take delivery of the Goods as arranged then Coast to Coast shall be entitled to charge a reasonable fee for redelivery.
- 5.4 Delivery of the Goods to a third party nominated by the Customer is deemed to be delivery to the Customer for the purposes of this agreement.
- 5.5 The failure of Coast to Coast to deliver shall not entitle either party to treat this contract as repudiated.
- 5.6 Coast to Coast shall not be liable for any loss or damage whatsoever due to failure by Coast to Coast to deliver the Goods (or any of them) promptly or at all, where due to circumstances beyond the control of Coast to Coast.
- 6. Risk**
- 6.1 If Coast to Coast retains ownership of the Goods nonetheless, all risk for the Goods passes to the Customer on delivery.
- 6.2 Where the Customer expressly requests Coast to Coast to deliver Goods outside Coast to Coast's premises for collection or to leave the Goods to an unattended location then such Goods shall be left at the Customer's sole risk and it shall be the Customer's responsibility to ensure the Goods are insured adequately or at all.
- 6.3 The Customer acknowledges and agrees that Goods may be supplied in cartons. The Customer shall check upon delivery how many items there are per carton. Coast to Coast may supply sufficient whole cartons to satisfy the Customer's order and the Customer agrees to accept all products so delivered.
- 7. Title**
- 7.1 Coast to Coast and the Customer agree that ownership of the Goods shall not pass until:
- (a) the Customer has paid Coast to Coast all amounts owing for the particular Goods; and
- (b) the Customer has met all other obligations due by the Customer to Coast to Coast in respect of all contracts between Coast to Coast and the Customer.
- 7.2 Receipt by Coast to Coast of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then Coast to Coast's ownership or rights in respect of the Goods shall continue.
- 7.3 It is further agreed that:
- (a) where practicable the Goods shall be kept separate and identifiable until Coast to Coast shall have received payment and all other obligations of the Customer are met; and
- (b) until such time as ownership of the Goods shall pass from Coast to Coast to the Customer Coast to Coast may give notice in writing to the Customer to return the Goods or any of them to Coast to Coast. Upon such notice the rights of the Customer to obtain ownership or any other interest in the Goods shall cease; and
- (c) Coast to Coast shall have the right of stopping the Goods in transit whether or not delivery has been made; and
- (d) if the Customer fails to return the Goods to Coast to Coast then Coast to Coast or Coast to Coast's agent may (as the invitee of the Customer) enter upon and into land and premises owned, occupied or used by the Customer, or any premises where the Goods are situated and take possession of the Goods; and
- (e) the Customer is only a bailee of the Goods and until such time as Coast to Coast has received payment in full for the Goods then the Customer shall hold any proceeds from the sale or disposal of the Goods, up to and including the amount the Customer owes to Coast to Coast for the Goods, on trust for Coast to Coast; and
- (f) the Customer shall not deal with the money of Coast to Coast in any way which may be adverse to Coast to Coast; and
- (g) the Customer shall not charge the Goods in any way nor grant nor otherwise give any interest in the Goods while they remain in the property of Coast to Coast; and
- (h) Coast to Coast can issue proceedings to recover the Price of the Goods notwithstanding that ownership of the Goods may not have passed to the Customer; and
- (i) until such time that ownership in the Goods passes to the Customer, if the Goods are converted into other products, the parties agree that Coast to Coast will be the owner of the end products.
- 8. Defects**
- 8.1 The Customer shall inspect the Goods and shall within thirty (30) days of the invoice date (time being of the essence) notify Coast to Coast of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Customer shall afford Coast to Coast an opportunity to inspect the Goods within a reasonable time following delivery if the Customer believes the Goods are defective in any way. If the Customer shall fail to comply with these provisions the Goods shall be presumed to be free from any defect or damage. For defective Goods, which Coast to Coast has agreed in writing that the Customer is entitled to reject, Coast to Coast's liability is limited to either (at Coast to Coast's discretion) replacing the Goods or repairing the Goods except where the Customer has acquired Goods as a consumer within the meaning of the Trade Practices Act 1974 (Cwth) or the Fair Trading Acts of the relevant state or territories of Australia, and is therefore also entitled to, at the consumer's discretion either a refund of the purchase price of the Goods, or a credit for the Goods, or repair of the Goods, or replacement of the Goods.
- 9. Returns**
- 9.1 Returns will only be accepted provided that:
- (a) the Customer has complied with the provisions of clause 8.1; and
- (b) Coast to Coast has agreed in writing to accept the return of the Goods; and
- (c) the Goods are returned at the Customer's cost within thirty (30) days of the delivery date; and
- (d) Coast to Coast will not be liable for Goods which have not been stored or used in a proper manner; and
- (e) the Goods are returned in the condition in which they were delivered and with all packaging material, brochures and instruction material in as new condition as is reasonably possible in the circumstances, and without the Customer's own pricing stickers or labels on the Goods or the packaging, as well as the original invoice number and date must be provided.
- 10. Intellectual Property**
- 10.1 Where Coast to Coast has designed, drawn or written Goods for the Customer, then the copyright in those designs and drawings and documents shall remain vested in Coast to Coast, and shall only be used by the Customer at Coast to Coast's discretion.
- 10.2 The Customer warrants that all designs or instructions to Coast to Coast will not cause Coast to Coast to infringe any patent, registered design or trademark in the execution of the Customer's order and the Customer agrees to indemnify Coast to Coast against any action taken by a third party against Coast to Coast in respect of any such infringement.
- 10.3 The Customer agrees that Coast to Coast may utilise images of Goods designed, created or drawn by Coast to Coast for the purposes of advertising, marketing, or entry into any competition.
- 11. Default and Consequences of Default**
- 11.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at Coast to Coast's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 11.2 In the event that the Customer's payment is dishonoured for any reason the Customer shall be liable for any dishonour fees incurred by Coast to Coast.
- 11.3 If the Customer defaults in payment of any invoice when due, the Customer shall indemnify Coast to Coast from and against all costs and disbursements incurred by Coast to Coast in pursuing the debt including legal costs on a solicitor and own client basis and Coast to Coast's collection agency costs.
- 11.4 Without prejudice to any other remedies Coast to Coast may have, if at any time the Customer is in breach of any obligation (including those relating to payment) Coast to Coast may suspend or terminate the supply of Goods to the Customer and any of its other obligations under the terms and conditions. Coast to Coast will not be liable to the Customer for any loss or damage the Customer suffers because Coast to Coast has exercised its rights under this clause.
- 11.5 Without prejudice to Coast to Coast's other remedies at law Coast to Coast shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to Coast to Coast shall, whether or not due for payment, become immediately payable in the event that:
- (a) any money payable to Coast to Coast becomes overdue, or in Coast to Coast's opinion the Customer will be unable to meet its payments as they fall due; or
- (b) the Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
- (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.
- 12. Security and Charge**
- 12.1 Despite anything to the contrary contained herein or any other rights which Coast to Coast may have however:
- (a) where the Customer and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being charged, both the Customer and/or the Guarantor agree to mortgage and/or charge all of their joint and/or several interest in the said land, realty or any other asset to Coast to Coast or Coast to Coast's nominee to secure all amounts and other monetary obligations payable under these terms and conditions. The Customer and/or the Guarantor acknowledge and agree that Coast to Coast (or Coast to Coast's nominee) shall be entitled to lodge where appropriate a caveat, which caveat shall be withdrawn once all payments and other monetary obligations payable hereunder have been met.
- (b) should Coast to Coast elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Customer and/or Guarantor shall indemnify Coast to Coast from and against all Coast to Coast's costs and disbursements including legal costs on a solicitor and own client basis.
- (c) the Customer and/or the Guarantor (if any) agree to irrevocably nominate constitute and appoint Coast to Coast or Coast to Coast's nominee as the Customer's and/or Guarantor's true and lawful attorney to perform all necessary acts to give effect to the provisions of this clause 12.1.
- 13. Cancellation**
- 13.1 Coast to Coast may cancel any contract to which these terms and conditions apply or cancel delivery of Goods at any time before the Goods are delivered by giving written notice to the Customer. On giving such notice Coast to Coast shall repay to the Customer any sums paid in respect of the Price. Coast to Coast shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 13.2 In the event that the Customer cancels delivery of Goods the Customer shall be liable for any loss incurred by Coast to Coast (including but not limited to, any loss of profits) up to the time of cancellation.
- 13.3 Cancellation of orders for Goods made to the Customer's specifications or non-stock items will definitely not be accepted, once production has commenced.
- 14. Privacy Act 1988**
- 14.1 The Customer and/or the Guarantor/s (herein referred to as the Customer) agree for Coast to Coast to obtain from a credit reporting agency a credit report containing personal credit information about the Customer in relation to credit provided by Coast to Coast.
- 14.2 The Customer agrees that Coast to Coast may exchange information about the Customer with those credit providers either named as trade referees by the Customer or named in a consumer credit report issued by a credit reporting agency for the following purposes:
- (a) to assess an application by the Customer; and/or
- (b) to notify other credit providers of a default by the Customer; and/or
- (c) to exchange information with other credit providers as to the status of this credit account, where the Customer is in default with other credit providers; and/or
- (d) to assess the creditworthiness of the Customer.
15. The Customer understands that the information exchanged can include anything about the Customer's creditworthiness, credit standing, credit history or credit capacity that credit providers are allowed to exchange under the Privacy Act 1988.
- 15.1 The Customer consents to Coast to Coast being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) Privacy Act 1988).
- 15.2 The Customer agrees that personal credit information provided may be used and retained by Coast to Coast for the following purposes (and for other purposes as shall be agreed between the Customer and Coast to Coast or required by law from time to time):
- (a) the provision of Goods; and/or
- (b) the marketing of Goods by Coast to Coast, its agents or distributors; and/or
- (c) analysing, verifying and/or checking the Customer's credit, payment and/or status in relation to the provision of Goods; and/or
- (d) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Customer; and/or
- (e) enabling the daily operation of Customer's account and/or the collection of amounts outstanding in the Customer's account in relation to the Goods.
- 15.3 Coast to Coast may give information about the Customer to a credit reporting agency for the following purposes:
- (a) to obtain a consumer credit report about the Customer;
- (b) allow the credit reporting agency to create or maintain a credit information file containing information about the Customer.
- 15.4 The information given to the credit reporting agency may include:
- (a) personal particulars (the Customer's name, sex, address, previous addresses, date of birth, name of employer and driver's licence number;
- (b) details concerning the Customer's application for credit or commercial credit and the amount requested;
- (c) advice that Coast to Coast is a current credit provider to the Customer;
- (d) advice of any overdue accounts, loan repayments, and/or any outstanding monies owing which are overdue by more than sixty (60) days, and for which debt collection action has been started;
- (e) that the Customer's overdue accounts, loan repayments and/or any outstanding monies are no longer overdue in respect of any default that has been listed;
- (f) information that, in the opinion of Coast to Coast, the Customer has committed a serious credit infringement (that is, fraudulently or shown an intention not to comply with the Customer's credit obligations);
- (g) advice that cheques drawn by the Customer for more than hundred dollars (\$100) or more, have been dishonoured more than once;
- (h) that credit provided to the Customer by Coast to Coast has been paid or otherwise discharged.
- 16. General**
- 16.1 If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 16.2 These terms and conditions and any contract to which they apply shall be governed by the laws of the State in which the sale was made and are subject to the jurisdiction of the courts of that same State.
- 16.3 Coast to Coast shall be under no liability whatsoever to the Customer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by Coast to Coast of these terms and conditions.
- 16.4 In the event of any breach of this contract by Coast to Coast the remedies of the Customer shall be limited to damages which under no circumstances shall exceed the Price of the Goods.
- 16.5 The Customer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by Coast to Coast nor to withhold payment of any invoice because part of that invoice is in dispute.
- 16.6 Coast to Coast may license or sub-contract all or any part of its rights and obligations without the Customer's consent.
- 16.7 The Customer agrees that Coast to Coast may review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which Coast to Coast notifies the Customer of such change.
- 16.8 Neither party shall be liable for any default due to any act of God, war, terrorist, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.
- 16.9 The failure by Coast to Coast to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision nor shall it affect Coast to Coast's right to subsequently enforce that provision.