



**CONFIDENTIAL**

**CREDIT APPLICATION AND TERMS OF TRADING AGREEMENT**

THIS AGREEMENT made the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

BETWEEN **NPA Pty Ltd** of **10 GRAY STREET KILKENNY STH AUST 5009**  
(The Supplier)

AND \_\_\_\_\_ of \_\_\_\_\_  
(The Customer)

**WHEREAS -**

- (a) The customer is desirous of establishing a credit trading account with the Supplier and pursuant to its desire to establish a credit trading account has submitted to the Supplier the information and financial particulars as set out in the First Schedule.
- (b) The Supplier has agreed to consider the Application of the Customer and to advise the Customer as to whether or not credit will be extended to the Customer.
- (c) The parties agree that in the event of the Supplier granting to the Customer credit facilities then such credit facilities shall be on the terms and conditions herein appearing overleaf.

**FIRST SCHEDULE**

<input type="checkbox"/> COMPANY	<input type="checkbox"/> PARTNERSHIP/SOLE TRADER	<input type="checkbox"/> TRUSTEE COMPANY
Registered Name of Company: _____		
Trading Name: _____		
Postal Address: _____		
Business Address: _____		
Telephone: (____) _____ Facsimile (____) _____		
A.B.N.: _____ email : _____		
Invoices/Statements accounts email : _____		
DIRECTORS/PROPRIETORS	PRIVATE ADDRESS	PHONE
1. _____		
2. _____		
3. _____		
HAVE APPLICANTS EVER BEEN REGISTERED UNDER ANY PART OF THE BANKRUPTCY ACT? <b>NO YES</b>		
AFFILIATED OR PARENT COMPANIES _____		
BANK _____ BRANCH _____ A/C No _____		
ARE BUSINESS PREMISES OWNED, LEASED, MORTGAGED? _____ ESTIMATED MONTHLY PURCHASES _____		
<b><u>TRADE REFERENCES/CREDIT PROVIDERS</u></b>		
NAME	PHONE	FAX
1. _____ (____) _____ (____) _____		
2. _____		
3. _____		

**TERMS:- 30 DAYS FROM END OF MONTH IN WHICH GOODS / SERVICES ARE PURCHASED**

The Customer and signatories appearing below hereby acknowledge receipt of a copy of the agreement and upon acceptance by the Supplier by way of written notice or the supply of goods or services AND HAVING READ the terms of the agreement overleaf agrees to be bound accordingly. The Customer further agrees to the obtaining and use of credit information as stated in clauses 12, 13 and 14 overleaf.

SIGNATURE OF AUTHORISED REPRESENTATIVE \_\_\_\_\_

FULL NAME \_\_\_\_\_ POSITION \_\_\_\_\_

# TERMS OF TRADING AGREEMENT

## THE AGREEMENT

1. The customer hereby warrants that the information comprised in the First Schedule hereto is true accurate and correct and is supplied for the purpose of obtaining credit.
2. The customer warrants that the persons' signatures appearing on this Agreement are duly authorised by the Customer to apply for credit and execute this Agreement.
3. The customer agrees to adhere to the terms and conditions of this Agreement.

## 4. Jurisdiction

Notwithstanding any implication of law to the contrary, all contracts between the Customer and the Supplier shall be deemed to be made and construed and to be enforceable in and according to the laws of the State of South Australia and by mutual consent to be subject to the jurisdiction of the Courts of that State.

## 5. In the event of the Supplier granting credit facilities to the Customer then the following terms apply -

- 1) All accounts are to be settled in full within 30 days from end of month in which goods/services are purchased.
- 2) That should the Customer default in the payment of any monies due under this Agreement then all monies due to the Supplier shall immediately become due and payable and shall be paid by the Customer within seven (7) days of the date of demand and the Supplier shall be entitled to charge interest on all amounts not paid by the due date for payment and the Customer undertakes to pay any interest so charged. Such interest shall be calculated on a daily basis from the due date for payment until the date the Supplier receives payment at such rate, up to but not exceeding 2% per month.
- 3) Any expenses, costs or disbursements incurred by the Supplier in recovering any outstanding monies including debt collection agency fees and solicitors costs shall be paid by the Customer providing that those fees do not exceed the scale charges as charged by that debt collection agency/solicitor.
- 4) The Supplier shall be entitled without notice to terminate any credit arrangement with the Customer in the event of the Customer defaulting in any of the terms and conditions herein contained.
- 5) The Supplier shall be entitled at any stage during the continuance of this Agreement to request such security or additional security as the Supplier shall in its discretion think fit and shall be entitled to withhold supply of any goods or credit arrangements until such security or additional security shall be obtained or for any other reason at the Supplier's discretion.

## 6. Title and Risk

- 1) Risk passes to Customer on delivery/collection. All Goods shall remain the property of the Supplier until all debts due to Supplier by Customer are paid in full.
- 2) Customer shall be bailee of Goods in its possession whose title remains with the Supplier.
- 3) Goods in the customer's possession must be clearly identifiable as the property of the supplier.
- 4) If Customer fails to pay any debt due to the Supplier by the date for payment, the Supplier may retake possession of Goods. All costs of such repossession of Goods by the Supplier will be payable by Customer. Such rights shall be without prejudice to the Supplier's right to claim damages from the Customer for breach of contract.
- 5) Customer irrevocably authorises the Supplier and its servants and agents to enter upon the Customer's premises without notice at any time, for the purposes of examination or recovery of Goods.
- 6) Customer shall indemnify the Supplier against any loss or expense arising from the Customer breaching this Contract.
- 7) All parts added to Goods by Customer, will form part of Goods for the purpose of this contract.
- 8) If Customer makes new Goods or other Goods from or with goods, these new Goods are Goods for the purpose of this contract.
7. These Conditions of Sale shall not exclude, limit, restrict, or modify the rights, entitlements and remedies conferred upon the Customer or the liabilities imposed upon the Supplier by any condition or warranty implied by a Commonwealth, State or Territory Act or Ordinance, rendering void or prohibiting such exclusion, limitation, restriction or modification.
8. If any of these terms or conditions is or becomes for any reason wholly or partly invalid that term or condition shall to the extent of the invalidity be severed without prejudice to the continuing force and validity of the remaining conditions.
9. In the case of a Trust Company we acknowledge that the Trustee shall be liable on the account and that in addition the assets of the trust shall be available to meet payment of the account.
10. **Change of ownership - Registered Particulars** - The Customer shall no later than 14 days prior to any proposed changes of ownership, change in Registered Particulars, alteration, addition to the shareholding or directorship, notify the Supplier of the proposed change and the Customer shall notify the Supplier of any Change, alteration, or addition to the Customer's internal structure and shall provide full details of the proposed change, alteration or addition, to the Supplier and the Customer shall be liable for any goods supplied by the Supplier after such change alteration or addition unless the Supplier shall have acknowledged by writing acceptance of the intending change, alteration or addition.
11. The Customer hereby charges the land upon which the goods are situated or the work carried out and other land owned or in the future acquired by the Customer from time to time and the Customer agrees immediately upon being required by the Supplier to enter into a mortgage to be prepared by the Supplier's solicitors on the terms and conditions as the Supplier's solicitor shall think fit to secure any sum due hereunder and the customer further agrees and permits and authorises the supplier to register a caveat over any land now owned by the Customer or in the future acquired by the Customer to secure any sum due hereunder at any time during the continuance of the Agreement.
12. **Privacy Act Acknowledgment that credit information may be given to a credit reporting agency**, the Customer understands that section 18E(8)(c) of the Act allows the Supplier to give credit reporting agency certain personal information about the Customer. The information which may be given to an agency is covered by section 18E(1) of the Act and includes: Particulars to identify the Customer, The fact that the Customer has applied for credit and the amount, The fact that the Supplier is a credit provider to the Customer, Payments which become overdue more than 60 days, Advice that payments are no longer overdue, Cheques of \$100 or more drawn by the Customer which a Bank has dishonoured more than once, In specified circumstances, that in the opinion of the Supplier the Customer has committed a serious credit infringement, That the credit provided to the Customer by the Supplier has been discharged.
13. **Authority for the Supplier to obtain certain credit information.** To enable the Supplier to assess the Customer application for commercial or personal credit, the Customer authorises the Supplier as follow: If asked to provide commercial credit, to obtain from a credit reporting agency a credit report containing personal credit information about the Customer. This is in accordance with section 18K(1)(b) of the Act. If asked to provide personal credit, to use a credit report containing information about the customers commercial activities or commercial creditworthiness from a business which provides information about the commercial creditworthiness of a person. This is in accordance with section 18L(4) of the Act.
14. **Authority to exchange information with other credit providers.** In accordance with section 18N(1)(b) of the Act, the Customer authorises the Supplier to give to and receive from the credit providers named overleaf or that may be named in a credit report issued by a credit reporting agency, information in the supplier's possession or the other credit provider's possession about the Customer's creditworthiness, credit standing, credit history, and credit capacity. The customer understands the information may be used to: (a) Assess an application for credit by the Customer, (b) Assist the Supplier in avoiding default on the Customer's credit obligations, (c) Notify other credit providers of a default by the Customer, d) Assess Customer's creditworthiness.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

# TERMS AND CONDITIONS OF SALE

- 1. Pricing**  
Listed Prices are expressed in Nett terms unless otherwise agreed to in writing and GST will be added in accordance with Government determinations.
- 2. Payment**  
Payment is due for goods purchased 30 days from month of invoice, unless otherwise confirmed in writing.
- 3. Minimum charge**  
There will be a minimum invoice value of \$50.00 Nett.
- 4. Availability of stock**  
Any order that cannot be filled from our warehouse stock will automatically be back ordered and processed when stock becomes available unless requested otherwise. We will not be liable for any charges due to product unavailability.
- 5. Product Specifications**  
Due to Manufacturers continuous improvements, Product Specifications may change without notice.
- 6. Claims**  
Must be made within 7 days of date of invoice. **Non-Delivery:** We will not be obliged to supply signatures on carrier's manifest more than 30 days after mailing our monthly statement. No claims will be recognised for any visual defects of products once installed.
- 7. Variations**  
Product variations of texture and/or colour to original sample will not be accepted for return unless prior arrangements have been agreed to. Due allowance should be made by the customer for variations in colour and/or texture which is unavoidable in manufacturing.
- 8. Deliveries**  
All orders are subject to our standard delivery conditions, and a charge (currently \$25.00) will be added for each despatch, excluding deliveries for backorders.
- 9. Acceptance**  
Acceptance of goods is deemed to be acceptance of these terms and conditions.
- 10. Returns**  
Returns can only be made with the prior consent of the supplier. A 25% restocking fee will be deducted for any unwanted goods returned for credit.
- 11. Limitation of Company Liability**
  - 1) The company will not in any circumstances be liable for any claim liability expense or cost emanating directly or indirectly for non-delivery or delay caused by weather, industrial action, unavailability of raw materials, or for any unexpected cause even indirectly affecting the availability of goods. The Company may unilaterally suspend any delivery for any period and/or cancel any agreement for sale without any liability whatsoever in consequence thereof.
  - 2) The company shall not in any circumstance be liable for any claim liability expense or cost arising even indirectly from any fault or weakness in or of the goods whether inherent or not or in respect of faulty or deceptive job practices and the Customer shall hold harmless and keep indemnified the Company there from.
- 12. Contract Condition upon Credit**  
Pursuant to Section 7(1) of the Consumer Transactions Act 1972 as amended, if the customer is "entitled to rescind" any agreement for the sale of goods then the Company shall rely upon Section 7(3) of that Act to the extent that the Customer shall indemnify the Company in respect of all loss in excess of that sustained through normal use of goods howsoever occasioned through such rescission.
- 13. Notices**  
Any notice invoice or document for the Customer shall be deemed to be sufficiently served if posted by ordinary prepaid post addressed to the Customer at the Customer's address last known and shall be deemed to have been received by the Customer on the working day following such posting.
- 14. Warranties and Representatives**
  - 1) All products supplied are guaranteed to be free from defects in material and workmanship for a period of 90 days from time of delivery. Our liability shall be limited to replacement of defective material only. Neither seller nor manufacturer shall be liable for any injury, loss, or damage, direct or consequential, rising out of the use of or the inability to use these products. Before using, user shall determine the suitability of the product for his intended use, user assumes all risk and liability whatsoever in connection therewith.
  - 2) These conditions contain all the terms and warranties and conditions relative to the purchase of any goods from the Company and of the goods themselves. All other express or implied conditions warranties statements assurances or representations including any warranty as to suitability fitness for any purpose or as to merchantability or any other quality (insofar as the same may be) are hereby expressly negated.
  - 3) The customer acknowledges and declares that the customer has read these terms and conditions and understands the same, that no warranty or representations have been made to the customer otherwise than herein contained, no warranty assurance promise or representation has been made regarding the quality fitness for use suitability or merchantability of goods for any purpose whatsoever, and that in all things the customer has relied on his own knowledge and judgment.
- 15.** NPA Pty Ltd may give notice to me/us from time to time of the substitution of new or amended Conditions of Sale and on receipt by me/us of any such. The substituted Conditions of Sale shall apply to all purchases by me/us from the Company thereafter and in lieu of those contained in this document.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

# DEED OF GUARANTEE AND INDEMNITY

Name: _____	Position: _____
Address: _____	
Date of Birth: _____	Driver's License No: _____
Name: _____	Position: _____
Address: _____	
Date of Birth: _____	Driver's License No: _____

In consideration of **NPA Pty Ltd** agreeing to:

- supply or continue to supply goods or services to \_\_\_\_\_ ("Customer"); or
- provide credit to Customer; or
- grant an indulgence outside NPA's agreed credit terms,

**I/We, the above-named Guarantor/s hereby:**

1. Agree to guarantee to NPA the due and punctual payment of all money presently owing or that in the future may be owing by the Customer, in respect of the cost of goods or services supplied by NPA to the Customer pursuant to NPA's Conditions of Sale (collectively called "guaranteed money").
2. Agree as a separate severable and additional covenant and obligation to indemnify and keep NPA indemnified from and against all losses, costs, charges and expenses whatsoever that NPA may suffer or incur in relation to the supply of goods or services to the Customer.
3. Agree that this Guarantee is a continuing guarantee, and this Indemnity is a continuing indemnity. Neither will be discharged or deemed to be discharged in any way by any payment to NPA other than the payment in full of the whole of the guaranteed money.
4. Agree that the Guarantor is liable to NPA as a principal and primary debtor for the payment of the guaranteed money.
5. Agree that this Guarantee and Indemnity and the liability of the Guarantor continues and may be enforced by NPA notwithstanding:
  - 1) that no steps or proceedings have been taken against the Customer;
  - 2) any indulgence or extension of time granted by NPA to the Customer;
  - 3) the death or bankruptcy or winding up of the Customer;
  - 4) that payment of the guaranteed money by the Customer cannot be legally enforced against the Customer.
6. I/We agree that NPA may obtain from a credit report agency a consumer credit report containing information about me/us for the purpose of assessing whether to accept me/us as a guarantor for credit applied for by, or provided to the borrowers named above (Privacy Act 1988)
7. The term "NPA" includes its successors and assigns and the terms "Customer" and "Guarantor" include their respective executors, administrators and successors.
8. The singular includes the plural and if there is more than one Guarantor listed above, their obligations are joint and several.

Date: \_\_\_\_\_

**Signed sealed and delivered by:**

\_\_\_\_\_  
In the presence of

\_\_\_\_\_  
Name & Signature of Witness

**Signed sealed and delivered by:**

\_\_\_\_\_  
In the presence of

\_\_\_\_\_  
Name & Signature of Witness