



ABN: 60 830 197 266

CREDIT APPLICATION – 30 DAY COMMERCIAL TRADING ACCOUNT

ABOUT ICON-SEPTTECH PTY LTD

Icon-Septech Pty Ltd was formed in July 2004. It originated from the divestment of precast operations of Icon Industries Pty Ltd which was formerly owned by Iplex Pipelines which included well known brands such as Gatic and Milnes.

Icon merged with Septech Industries (Australia) Pty Ltd, which has been trading since 1987.

Icon-Septech Pty Ltd has rapidly gained the reputation of being a quality supplier across its national network. We aim to be an industry leader in offering diversified solutions to the civil and rural markets. Icon-Septech offers products and expertise in the following categories:

- Precast Concrete
- Ferrous Access Covers and Grates
- Pipeline Fittings and Pipe
- Stormwater Treatment Systems
- Wastewater Treatment Systems
- Engineering Services

The company has capability to build solutions by bundling products from these groups to add value to its customers.

National Postal Address:
PO Box 4724
Loganholme BC QLD 4129

National Telephone: 1300 557 143

Website: www.icon-septech.com.au

ALL SECTIONS OF THIS APPLICATION MUST BE COMPLETED

Privacy Act Statement and Authority to: The Applicant

As an organisation providing credit facilities ICON-SEPTTECH ABN 60 830 197 266 (the Company) is subject to certain legislative and regulatory requirements which necessitate it obtaining and holding detailed information which personally identifies you and/or contains information or an opinion about you (Personal Information). The Company abides by the National Privacy Principles established under the *Privacy Act* 1988. A copy of the National Privacy Principles and our Privacy Policy are available by contacting the Company's office.

I/We acknowledge that the information provided in this Credit Account Application (Application) and accompanying Guarantee has been given to the Company for the purposes of its assessing the financial standing and credit worthiness of each of us.

I/we:

1. authorise the Company to make any enquiries and obtain any information from bankers and business referees mentioned in this Application or from anybody else that the Company may reasonably consider necessary;
2. have been informed by the Company in accordance with section 18E(8)(c) of the *Privacy Act* 1988 that certain items of Personal Information about me/us (including an opinion) might be disclosed to credit reporting agencies;
3. in accordance with sections 18H, 18K and 18L(4) of the *Privacy Act* 1988:
 - (a) agree to reports being given to the Company for the purpose of assessing this Application;
 - (b) agree that the Company may use, for the purpose of assessing an Application for credit and any accompanying Guarantee, any information concerning my/our commercial activities or commercial credit worthiness obtained from a person or body carrying on any business involving the provision of information about the commercial credit worthiness of persons; and
 - (c) authorise the Company to exercise my/our rights of access to my/our credit information files and credit reports;
4. agree that the Company may disclose or receive from any credit providers or credit reporting agency whether or not named in this Application any report or record or information that may have any bearing on my/our credit worthiness, credit standing, credit history or credit capacity for any of the following purposes:
 - (a) the assessment of any Application by me/us for credit or commercial credit;
 - (b) to notify other credit providers of a default by me/us;
 - (c) to exchange information with other credit providers as to the status of my/our account when I am/we are in default with the Company or with another credit provider;
 - (d) to assess my/our credit worthiness or commercial credit worthiness at any time; or
 - (e) to assess whether to accept me/us as an Applicant or to continue to provide us/me with credit;
5. agree that the Company may disclose certain aspects of Personal Information to third parties for the purposes of debt recovery, commencement or continuance of proceedings brought under the Terms and Conditions of Trade Credit of the Application and any accompanying Guarantee, data analysis or as outlined in the Company's Privacy Policy.

TO BE SIGNED BY AUTHORISED SIGNATORY ON BEHALF OF THE APPLICATION:

Name	Signature	Position	Date

Section 1: Name / Business Details

I / We the undersigned, request that you open a 30 day Credit Trading Account in the name of:

Type of entity: Sole Trader Partnership Company Government

Legal name:

Trading name:

ABN: ACN:

Postal Address: Suburb:

..... State: Post Code:

Street Address: Suburb:

..... State: Post Code:

Phone: () Fax: ()

Section 2: Accounts Contact / Financial Institution / Business Particulars

Accounts Payable Contact: Email:
Phone: () Fax: ()
Finance Manager/Controller: Email:
Financial Institution: BSB: A/C Number:
Nature of business: Business Establishment date:/...../.....
****CREDIT REQUIREMENT PER MONTH: \$**
(Must be completed)
HAS AN ICON-SEPTECH SALES REPRESENTATIVE VISITED YOUR ORGANISATION: YES/NO

Section 3: Directors / Owners Personal Information

1. Name: 2. Name:
Home Address: Home Address:
Phone: () Mobile: Phone: () Mobile:
DOB: DOB:
Drivers License No: Drivers License No:

Section 4: Trade / Credit References (minimum of 3 references required)

****Please only provide Trade References that support your Credit Requirement****
Icon Septech requires a minimum of 3 checkable references to confirm your request for credit:
Please note that the following DO NOT provide Trade References:
*Financial Institutions *Gas/Fuel/Electrical Companies *Reece/Tradelink/Vinidex
Company 1: Company 2:
Ph: () Fax: () Ph: () Fax: ()
Average Monthly Spend: \$ Average Monthly Spend: \$
Company 3: Company 4:
Ph: () Fax: () Ph: () Fax: ()
Average Monthly Spend: \$ Average Monthly Spend: \$

Terms and Conditions of Trade Credit

- 1 In these Terms and Conditions of Trade Credit (Terms), unless the context otherwise requires:
 - (a) *Application* means an application for commercial credit only which includes these Terms and the accompanying application by You. It does not include an application for consumer credit.
 - (b) *Business Day* means between 9:00 am and 5:00 pm on a day (not being a Saturday, Sunday or public holiday) on which banks are open for general banking business in Brisbane.
 - (c) *Goods* means any item available for sale (including any services) to You by Us.
 - (d) *Non-Complying Order* means Your order that does not meet Our requirements.
 - (e) *Purchase Order* means any purchase of Goods made by You from Us, in writing, by telephone, in person, SMS, email or fax.
 - (f) *We, Us, Our* means Icon-Septech Pty Ltd (ABN 60 830 197 266) and includes any subsidiary or related entity as those terms are defined in the *Corporations Act 2001* (Cth) and any agents, employees, successors and assigns.
 - (g) *You, Your* means any person, firm, corporation or in the case of an unincorporated body, each proprietor jointly and severally that has requested the supply of Goods from Us, and includes employees, agents, successors, administrators, and assigns of You. Where You are comprised of two or more persons then it means each person jointly and severally.
- 2 You declare and affirm that:
 - (a) You have read and understood these Terms and confirm that the Terms apply to a commercial credit facility provided by Us to You;
 - (b) The information supplied by You, in this Application for credit is true and correct;
 - (c) We will use this information for the purpose of assessing Your application for commercial credit;
 - (d) This Application is only in respect to commercial credit and not consumer credit;
 - (e) You have read and understood the *Privacy Act 1988* (Cth) Statement and Authority which is incorporated into and forms part of these Terms; and
 - (f) You are bound to the terms of our suppliers in relation to the Goods you purchase. Our suppliers' terms are made available upon request.
- 3 These Terms are a fundamental part of the Application and form part of the agreement between You and Us in relation to any Purchase Order.
- 4 **General**
 - (a) If any of these Terms or part of a term of these Terms cannot be given effect for any reason the term or part of a term which cannot be given effect will be severed and read down respectively and the remaining terms of these Terms and part of any term will remain valid and binding so as to give effect to the intention of the parties.
 - (b) You agree to notify Us in writing of any change in Your ownership or address. Notwithstanding any change in Your ownership/trading structure or any advice by You to Us of such change, You remain liable for any Goods requested by You or on Your behalf until You have received written confirmation from Us that Your account has been closed and full payment received.
 - (c) These Terms and any contract between Us and You are governed by the laws of the State of Queensland. The parties submit to the exclusive jurisdiction of the courts in Brisbane. The parties agree that proceedings may be commenced in any court in Brisbane and consent to that court having jurisdiction, notwithstanding that the court would not have such jurisdiction without this clause.
- 5 **Conditions of approved customer status**
 - (a) Your account for Goods must not, at any time, exceed the credit limit nominated and approved by Us in Your application. We may at any time amend Your credit limit without prior notice.
 - (b) You will be provided with a customer number and may be provided with an identification card (ID Card). At the time of purchase, You are required to provide sufficient identification to place a Purchase Order. You are responsible for the use and safe keeping of Your customer number or ID Card, when provided. You remain liable for any Purchase Orders made in the name of Your customer number or ID Card, whether made with or without Your authorisation.
 - (c) You must notify us within 10 Business Days of Your knowledge of any proposed change in the ownership of Your business. At Our sole discretion, We reserve the right to terminate Your Application if the change in ownership will adversely impact Your credit rating with Us.
 - (d) You acknowledge that as part of the Application, We will check the credit history of You, and if a company, its directors and officers to enable us to evaluate Your creditworthiness.
 - (e) If You are a company, Your directors may be required to provide us with a personal guarantee for any debts or liabilities of the company owed to Us, including unpaid Goods. This may be a condition of Us granting approval to Your Application.
 - (f) We may at any time and without the need to provide a reason to You refuse to extend any further credit to You and that approval of this Application for commercial credit does not require Us to extend to You any particular amount of credit.
 - (g) We may require that You enter into further security documentation as a condition of granting this credit facility to You. If there is an inconsistency between the provisions of those security documents and these Terms and the failure by Us to insist upon compliance with any of these terms or any parts of a term does not constitute a waiver of that term or part of a term and We are entitled to insist upon compliance with all of these Terms at any time.
- 6 **Representations**
 - (a) An Application may be withdrawn at any time. Unless withdrawn, each Application is open for acceptance within the period stated on the Application or, when no period is stated, within 20 Business Days after the date of the Application.
 - (b) The descriptions, illustrations and performances contained in catalogues, price lists and other advertising matter do not form part of these Terms.
- 7 **Payment and price**
 - (a) If You are unable to pay any invoice by the specified payment date:
 - (i) We will suspend Your account and credit will not be available to You until the outstanding invoice has been paid in full; and
 - (ii) charge interest on the balance on any outstanding amount at 15% per month until the full amount is paid.
 - (b) A statement in writing signed by any Director, Secretary, Credit Manager or other duly authorised person on Our behalf stating that the balance of monies due to Us by You are prima facie evidence of the amount of the indebtedness of You to Us at the date of that statement.
 - (c) You will pay to Us any and all of Our expenses including but not limited to any legal costs (on an indemnity basis), stamp duties and other expenses payable under these Terms together with any collection costs incurred in connection with the enforcement of, or preservation of any rights under these Terms. Such costs, duties and other expenses may be recovered by Us from You as a liquidated debt. Any payments received by Us from You are applied firstly to any legal costs, duties and other expenses, then to interest and the remainder to the balance of monies owed by You.
- 8 **Goods and Services Tax**
 - (a) "GST" and "taxable supply" have the meaning given to them, respectively, in the *A New Tax System (Goods and Services Tax) Act 1999*.
 - (b) In this clause the following definitions apply:
 - (i) GST Law has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999*.
 - (ii) All terms used in this clause that are defined in the GST Law have the meanings given in the GST Law.
 - (c) If We become liable for GST in respect of a supply made under the Terms, You must pay to Us an amount equivalent to Our GST liability, at the same time as the payment is made involving Us. If We are entitled to an input tax credit in relation to any amount recoverable from You under this clause, the amount payable by the recipient must be reduced by the amount of the input tax credit that We have received or claim and is entitled to receive.
 - (d) In respect of each payment by You under this clause, We must deliver a tax invoice to You.
- 9 **Warranties**
 - (a) We do not provide consumer credit and the Application will only be assessed and granted on the basis that it an application for commercial credit.

- (b) Except as provided in these terms, all express and implied warranties, guarantees and conditions under statute or general law as to description, quality, suitability or fitness of the Goods for any purpose or as to design, assembly, installation, materials or workmanship or otherwise are expressly excluded.
- (c) Where any legislation such as the *Trade Practices Act 1974* implies into these Terms any condition or warranty and that legislation voids or prohibits conditions in a contract excluding the application of the condition or warranty, the liability of Us for any breach of the condition or warranty is limited to, at Our option:
- (i) In the case of services:
 (A) the resupply of the services; or
 (B) the cost of having the services resupplied;
- (ii) In the case of goods:
 (A) the replacement of the goods;
 (B) the repair of any defect in the goods; or
 (C) the cost of replacement of the goods.
- (d) Each party is under a duty to mitigate any damages or loss suffered or incurred as a result of any breach of these Terms of Conditions of Credit by any other party.
- 10 Your obligations
- (a) You must provide all assistance and information as requested and make any arrangements for Us that are reasonably necessary for Us to perform Our obligations under these Terms or as agreed by both parties in writing.
- (b) You acknowledge and agree that You are responsible for all acts and omissions of Your employees and contractors, whether You have authorised those acts or omissions or not.
- 11 Notice
- (a) Any notice required to be given by You to Us must be delivered personally or sent by post to the Credit Manager of Us at Our head office at PO Box 4724, Loganholme, 4129 (9-15 Telford Circuit, Yatala, 4207) and are only be taken as delivered when received by Us. Any notice to be given to You by Us may be delivered personally or sent by post to Your last known address.
- (b) A notice given in accordance with clause 11(a) takes effect when received (or at a later time specified in it), and is taken to be received:
- (i) if hand delivered, on delivery;
- (ii) if sent by prepaid post, 2 Business Days after the date of posting (or 5 Business Days after the date of posting if posted to or from outside Australia);
- (iii) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the notice in entirety unless, within eight Business Hours after the transmission, the recipient informs the sender that it has not received the entire notice, but if the delivery, receipt or transmission is not on a Business Day or after 5.00pm on a Business Day, the notice is taken to be received at 9.00am on the Business Day after that delivery, receipt or transmission.
- 12 Termination of credit
- (a) We may by providing You with 2 Business Days prior written notice:
- (i) revoke the credit accommodation to You and require any further transactions by You to be on a cash-before delivery basis; or
- (ii) impose a different credit limit; or
- (iii) seek additional security,
- if any of the following events occur:
- (iv) You commit a breach of any of these Terms and fail to remedy the same within 20 Business Days of being required to do so by written notice;
- (v) You become insolvent or bankrupt;
- (vi) An external administrator, receiver or liquidator is appointed in respect to Your assets or affairs; or
- (vii) a trustee in bankruptcy is appointed to You and Your assets.
- (b) Termination does not affect the parties' rights and obligations prior to the date of termination and, notwithstanding any such termination, each party will remain fully responsible and liable for all charges, expenses and costs incurred or earned as at the date of termination.
- (c) Termination does not affect any clauses of these Terms which by their nature are designed to survive or operate in the event of the termination, and does not prejudice any rights in respect of any breach prior to termination.

SIGNED BY ALL DIRECTORS, PARTNERS, OR SOLE TRADERS AS APPROPRIATE:

.....
Name	Signature	Position	Date
.....
Name	Signature	Position	Date

Terms and Conditions of Sale

- 13 In these Terms and Conditions of Sale (Terms), unless the context otherwise requires:
- (a) *Business Day* means between 9:00 am and 5:00 pm on a day (not being a Saturday, Sunday or public holiday) on which banks are open for general banking business in Brisbane.
- (b) *Goods* means any item available for sale (including any services) to You by Us.
- (c) *Non-Complying Order* means Your order that does not meet Our requirements.
- (d) *Purchase Order* means any purchase of Goods made by You from Us, in writing, by telephone, in person, SMS, email or fax.
- (e) *We, Us, Our* means Icon-Septech Pty Ltd (ABN 60 830 197 266) and includes any subsidiary or related entity as those terms are defined in the *Corporations Act 2001* (Cth) and any agents, employees, successors and assigns.
- (f) *You, Your* means any person, firm, corporation or in the case of an unincorporated body, each proprietor jointly and severally that has requested the supply of Goods from Us, and includes employees, agents, successors, administrators, and assigns of You. Where You are comprised of two or more persons then it means each person jointly and severally.
- 14 You declare and affirm that:
- (a) You have read and understood these Terms and agree to be bound by them; and

- 15 (b) You are bound to the terms of our suppliers in relation to the Goods you purchase. Our suppliers' terms are made available on request.
 16 These Terms form part of the agreement between You and Us in relation to any Purchase Order.
- General
- (a) All goods sold by Us are sold and supplied on these Terms as amended from time to time by Us by notice in writing to You, at Our discretion. Any alterations to these Terms will apply to all transactions between You and Us occurring after written notification of the altered Terms have been sent to You.
- (b) In Our absolute discretion, We may refuse to sell the Goods to You whether or not part of a contract has been performed, where the Goods are unavailable for any reason, a Non-Complying Order is received or You breach these Terms.
- (c) A Purchase Order will identify the Goods ordered, the quantity required and refer to any quotation pursuant to which the Purchase Order is made. We may supply Goods that vary from the Goods ordered by You and You must accept the Goods supplied provided that such variations are not material.
- (d) Any variation of a Purchase Order or cancellation of an order must be agreed in writing by Us.
- (e) If any of these Terms or part of a term of these Terms cannot be given effect for any reason the term or part of a term which cannot be given effect will be severed and read down respectively and the remaining terms of these Terms and part of any term will remain valid and binding so as to give effect to the intention of the parties.
- (f) You agree to notify Us in writing of any change in Your ownership or address. Notwithstanding any change in Your ownership/trading structure or any advice by You to Us of such change, You remain liable for any Goods requested by You or on Your behalf until You have received written confirmation from Us that Your account has been closed and full payment received.
- (g) These Terms and any contract between Us and You are governed by the laws of the State of Queensland. The parties submit to the exclusive jurisdiction of the courts in Brisbane. The parties agree that proceedings may be commenced in any court in Brisbane and consent to that court having jurisdiction, notwithstanding that the court would not have such jurisdiction without this clause.
- 17 Representations
- (a) The descriptions, illustrations and performances contained in catalogues, price lists and other advertising matter do not form part of these Terms.
- (b) All Goods to be supplied are described in the Purchase Order. That description prevails over all other descriptions including Your specification or enquiry.
- 18 Payment and price
- (a) Unless otherwise stated, all prices quoted are net, exclusive of delivery or other charges or GST.
- (b) All Goods are supplied at the price described in Our current Goods price list.
- (c) We will issue You with a valid tax invoice corresponding to your Purchase Order and any additional charges incurred (Invoice).
- (d) You agree to pay the Invoice within 30 days from the end of month of invoice (Payment Date), unless otherwise agreed to by Us in writing.
- (e) If You are unable to pay any Invoice by the Payment Date:
- (i) We will suspend Your account and credit will not be available to You until the outstanding invoice has been paid in full; and
- (ii) charge interest on the balance on any outstanding amount at 15% per month until the full amount is paid.
- (f) A statement in writing signed by any Director, Secretary, Credit Manager or other duly authorised person on Our behalf stating that the balance of monies due to Us by You are prima facie evidence of the amount of the indebtedness of You to Us at the date of that statement.
- (g) You will pay to Us any and all of Our expenses including but not limited to any legal costs (on an indemnity basis), stamp duties and other expenses payable under these Terms together with any collection costs incurred in connection with the enforcement of, or preservation of any rights under these Terms. Such costs, duties and other expenses may be recovered by Us from You as a liquidated debt. Any payments received by Us from You are applied firstly to any legal costs, duties and other expenses, then to interest and the remainder to the balance of monies owed by You.
- 19 Goods and services tax
- (a) "GST" and "taxable supply" have the meanings given to them, respectively, in the *A New Tax System (Goods and Services Tax) Act 1999*.
- (b) In this clause the following definitions apply:
- (c) GST Law has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999*.
- (d) All terms used in this clause that are defined in the GST Law have the meanings given in the GST Law.
- (e) If We become liable for GST in respect of a supply made under the Terms, You must pay to Us an amount equivalent to the Our GST liability, at the same time as the payment is made involving Us. If We are entitled to an input tax credit in relation to any amount recoverable from You under this clause, the amount payable by You must be reduced by the amount of the input tax credit that You have received or claim and is entitled to receive.
- (f) In respect of each payment by the recipient under this clause, We must deliver a tax invoice to You.
- 20 Delivery
- (a) If agreed by Us, We will deliver the Goods to the address nominated by You. If We deliver the Goods:
- (i) You must pay all freight and other charges associated with the delivery;
- (ii) You or Your representative must be present at the agreed place and time for delivery. If not present, We may unload the Goods at that place and in which case the Goods will be deemed to have been delivered and We will not be responsible for any claims, costs or losses suffered by You;
- (iii) In the event that a delivery date is nominated by You, We will take all reasonable steps to achieve delivery on or about that date. The delivery times made known to You are estimates only. We are under no liability for late delivery or non-delivery and under no circumstances are We liable for any loss, damage or delay occasioned to You or Your customers arising from late or non-delivery of the Goods; and
- (iv) Subject to these Terms all Goods will be paid for by You prior to delivery by Us irrespective of whether delivery is a part or all of a sale.
- (b) The risk in Goods only pass to You upon delivery. You must insure the Goods against loss or damage from that time and from time to time.
- 21 Set off
- (a) You are not entitled to make any claim against Us if any Invoice remains unpaid. You are not entitled to set off any amount against Us. We may at any time set-off amounts owed by Us to You against any sums owed by You to Us.
- (b) You must not deduct any sum from the total amount due on any of Our Invoices or statements for any reason whatsoever.
- 22 Rights in relation to Goods
- In relation to Goods supplied to You:
- (a) Property in Goods remain with Us until:
- (i) We receive full payment for those Goods; and
- (ii) We receive full payment of all other monies owing or unpaid by You to Us including monies in respect of Goods previously or subsequently supplied to You;
- (b) The risk in those Goods pass to You immediately on delivery to You or upon the Goods entering Your custody (whichever is the sooner) and You must insure those Goods thereafter against any such risks as You think appropriate;
- (c) The relationship between You and Us is fiduciary;
- (d) You will hold those Goods as bailee for Us and will be responsible for any loss, damage or conversion of Our Goods, until such time as all monies owing to Us have been paid for in full;
- (e) Those Goods will be stored by You in a manner as to show clearly that they remain the property of Us, until such time as all monies owing to Us have been paid for in full;
- (f) We reserve the following rights in relation to the Goods until all accounts owed by You to Us are fully paid and any cheques cleared:
- (i) legal ownership of the Goods;
- (ii) to enter Your premises (or the premises of any associated company or agent where the Goods are located) without liability for trespass or any resulting damages in order to retake possession of the Goods (if possible); and

- (iii) to keep or re-sell any Goods repossessed pursuant to clause 22(f)(ii);
- (g) You are at liberty to sell the Goods in the ordinary course of Your business, for full market value, provided that You account to Us for any proceeds of such sale and those proceeds will be kept in a separate account or trust for Us for that purpose, until accounted for to Us;
- (h) Where You sell those Goods, You will sell as principal and You have no power to commit Us to any contract or liability, but as between You and Us, You will sell as fiduciary agent;
- (i) We will be given full ownership as security of any new Goods or objects formed if You transfer Our Goods into other products or affix those Goods to other objects;
- (j) Despite the provisions of this clause, We are entitled to maintain an action against You for the purchase price of the Goods.
- 23 Return of Goods
- (a) You must inspect the Goods immediately upon delivery, and carry out any tests that a prudent consumer would carry out.
- (b) You must give written notice to Us of any alleged irregularity in quantity or description, or any faults or defects within 5 Business Days from the delivery.
- (c) If no notice is given by You to Us in accordance with clause 23(b) above, You are deemed to have accepted the Goods and You will lose any right to reject the Goods or claim any remedy whatsoever (including damages) against Us.
- (d) Goods must be returned, at Your cost, to Us, that is, from where they were purchased. Goods returned for credit and accepted by Us will be subject to handling charges of an amount equivalent up to the full value of the Goods if deemed appropriate. If Goods are not returned after 20 Business Days of notification of the claim to Us, You are not entitled to any credit. Unless otherwise agreed, no request for credit will be approved until Our representative has inspected the Goods on which the credit is claimed. Until this inspection, You are responsible for maintaining proper care of the Goods in question. We will not accept claims for damaged or defective Goods or for Goods returned where You have not in Our opinion maintained proper care of the delivered Goods.
- (e) You waive any claim for shortage of any Goods delivered if You have not lodged a claim with Us within 48 hours from the date of receipt of the Goods.
- (f) You acknowledge and agree that custom Goods manufactured by Us on Your instruction, Goods damaged or lost in transit, non-returnable Goods ordered specifically for You, and Goods altered or damaged by You are not acceptable for return or credit.
- 24 Warranties
- (a) Subject to clause 99(c), We agree to manufacture and supply the Goods in good faith, using reasonable endeavours and with due care and skill. We disclaim all other warranties, either express or implied, including without limitation warranties of merchantability and fitness for a particular purpose.
- (b) Except as provided in these terms, all express and implied warranties, guarantees and conditions under statute or general law as to description, quality, suitability or fitness of the Goods for any purpose or as to design, assembly, installation, materials or workmanship or otherwise are expressly excluded.
- (c) Where any legislation such as the *Trade Practices Act 1974* implies into these Terms any condition or warranty and that legislation voids or prohibits conditions in a contract excluding the application of the condition or warranty, the liability of Us for any breach of the condition or warranty is limited to, at Our option:
- (i) In the case of services:
- (A) the resupply of the services; or
- (B) the cost of having the services resupplied;
- (ii) In the case of goods:
- (A) the replacement of the goods;
- (B) the repair of any defect in the goods; or
- (C) the cost of replacement of the goods.
- (d) Each party is under a duty to mitigate any damages or loss suffered or incurred as a result of any breach of these Terms of Conditions of Credit by any other party.
- 25 Liability
- (a) You hereby charge all beneficial interests (freehold and leasehold) in land wherever located held now or in the future by You with the amount of Your indebtedness to Us and Your obligations pursuant to the Terms. You agree that if demand is made by Us, You will immediately execute a consent to caveat or mortgage (the terms of such mortgage as determined by Us), as required by Us to secure the obligations pursuant to this clause. If You fail to execute a consent to caveat, a caveat or mortgage within a reasonable time of being so requested, You irrevocably and by way of security appoint Us and Our agent or solicitor to be Your true and lawful attorney to execute and register such instruments.
- (b) We are not liable to You for any loss, damage, injury or loss of life arising out of, or incidental to, the provision of the Goods regardless of whether or not such loss or damage is caused or contributed to by any default, omission or negligent act on Our part, or Our servants or agents. We are not liable for any loss including loss of business by You during any period You are unable to use the Goods or We are unable to provide the Goods to You, provided that We offer equivalent Goods or repair the Goods, We may elect in Our sole discretion.
- (c) In no event are We liable for special, indirect, incidental, consequential or punitive damages, or losses of any nature (including costs or expenses), lost profits, opportunity costs, or failure to realise anticipated savings.
- (d) We are not under any liability to You if We are unable to provide the Goods for any reason either at all or in part to You by reason of any cause beyond Our reasonable control.
- (e) Our liability for Goods manufactured by Us is limited to making good any defects by repairing the same or at Our sole option by replacement within a period not exceeding 12 calendar months after the Goods have been dispatched provided that:
- (i) defects have arisen solely from faulty materials or workmanship;
- (ii) the Goods have not received maltreatment, inattention or interference;
- (iii) accessories of any kind used by You are manufactured or approved by Us;
- (iv) the seals of any kind on the Goods remain unbroken; or
- (v) the defective parts are promptly returned free of cost to Us.
- (f) Where the Goods are not manufactured by Us, the guarantee of the manufacturer must be accepted by You and is the only guarantee given to You in respect of the Goods.
- (g) We are not liable for, and You release Us from, any claims in respect of, faulty or defective design of any Goods supplied unless such design has been wholly prepared by Us and the responsibility for any claim has been specifically accepted by Us in writing. In any event, Our liability is strictly limited to the replacement of defective parts.
- 26 Your obligations
- (a) You must provide any assistance and information as requested by Us and make any arrangements for Us that are reasonably necessary for Us to perform Our obligations under these Terms or as agreed by both parties in writing.
- (b) You acknowledge and agree to each of the following:
- (i) You are responsible for all acts and omissions of Your employees and contractors, whether You have authorised those acts or omissions or not;
- (ii) We are not liable for any delays to provide the Goods where those delays are caused in whole or in part by You, any Our suppliers or other third parties;
- (iii) delivery of Goods may be subject to technical limitations such as third party availability; and
- (iv) Goods are provided on an AS IS basis.
- 27 Lien
- We have a lien on Your assets and any of Your related documents in Our possession for all sums payable by You to Us and for that purpose have the right to sell Your assets and all related documents in Our possession, by public auction or privately without notice to You.

- 28 Notice
- (c) Any notice required to be given by You to Us must be delivered personally or sent by post to Us at Our head office at PO Box 4724, Loganholme, 4129 (9-15 Telford Circuit, Yatala, 4207) and are only be taken as delivered when received by Us. Any notice to be given to You by Us may be delivered personally or sent by post to Your last known address.
- (d) A notice given in accordance with clause 28(a) takes effect when received (or at a later time specified in it), and is taken to be received:
- (i) if hand delivered, on delivery;
- (ii) if sent by prepaid post, 2 Business Days after the date of posting (or 5 Business Days after the date of posting if posted to or from outside Australia);
- (iii) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the notice in entirety unless, within eight Business Hours after the transmission, the recipient informs the sender that it has not received the entire notice, but if the delivery, receipt or transmission is not on a Business Day or after 5.00pm on a Business Day, the notice is taken to be received at 9.00am on the Business Day after that delivery, receipt or transmission.
- 29 Termination
- (a) After following the Dispute Resolution process in clause 30, We may by providing You with 2 Business Days prior written notice:
- (i) terminate the Purchase Order;
- (ii) cancel any discounted prices given to You and recalculate the outstanding invoices on Our standard prices, if any of the following events occur:
- (iii) You commit a breach of any of these Terms and fail to remedy the same within 20 Business Days of being required to do so by written notice;
- (iv) You become insolvent or bankrupt;
- (v) An external administrator, receiver or liquidator is appointed in respect to Your assets or affairs; or
- (vi) a trustee in bankruptcy is appointed to You and Your assets.
- (b) Termination does not affect the parties' rights and obligations prior to the date of termination and, notwithstanding any such termination, each party will remain fully responsible and liable for all charges, expenses and costs incurred or earned as at the date of termination.
- (c) Termination does not affect any clause of these Terms which by its nature is designed to survive or operate in the event of the termination, and does not prejudice any rights in respect of any breach prior to termination.
- 30 Dispute resolution
- (a) If a dispute arises between the parties (Dispute) the following procedure applies:
- (i) A party may give another party a notice of the Dispute, and the Dispute must be dealt with in accordance with the procedure set out in this clause.
- (ii) A party must not commence legal proceedings (except proceedings seeking interlocutory relief) in respect of a Dispute unless the Dispute has been referred for resolution in accordance with this clause.
- (iii) A party must not oppose any application for a stay of any legal proceedings that may be issued in respect of a Dispute pending the completion or termination of the procedure set out in this clause.
- (b) If a Dispute is notified pursuant to clause 30(a)(i), the Dispute must immediately be referred to the parties' respective senior management. Those representatives must endeavor to resolve the Dispute as soon as possible and in any event within 5 Business Days (or other period as agreed).
- (c) Unless otherwise agreed by the parties, any Dispute that cannot be settled by negotiation between the parties or their representatives in accordance with clause 30(b) must be referred to an expert for a binding determination. A Dispute submitted to an expert must be dealt with in the following manner:
- (i) The expert must be agreed between the parties, or failing agreement, appointed by the President for the time being of The Institute of Arbitrators and Mediators Australia (IAMA) or the President's nominee.
- (ii) The location of any hearing or determination in relation to the Dispute is to be held in Brisbane, Queensland.
- (iii) The Dispute is conducted in accordance with the IAMA's Rules and Guidelines which are operating at the time the Dispute is referred to the IAMA.
- (iv) The expert must undertake to make the decision within 15 Business Days after receiving all relevant information and submissions.
- (v) The parties must provide all relevant documentation to the expert within 20 Business Days of the expert's appointment, and may make written submissions to the expert during this period.
- (vi) The expert acts as an expert and not an arbitrator in making the determination. The determination of the expert is binding on the parties, subject to manifest error.
- (vii) The costs of the expert must be shared equally between the parties to the Dispute.
- (d) Notwithstanding the existence of a Dispute (including the referral of the Dispute to mediation), each party must continue to perform its obligations under these Terms.
- (e) The parties must hold confidential, unless otherwise required by law or at the direction of a court of competent jurisdiction, all information relating to the subject matter of the Dispute that is disclosed during or for the purposes of dispute resolution. The parties acknowledge that the purpose of any exchange of information or documents or the making of any offer of settlement pursuant to this procedure is to attempt to settle the Dispute between the parties. No party may use any information or documents obtained through the dispute resolution process for any purpose other than an attempt to settle a Dispute between the parties.
- (f) Clause 30 survives termination of these Terms.

SIGNED BY ALL DIRECTORS, PARTNERS, OR SOLE TRADERS AS APPROPRIATE:

.....
Name	Signature	Position	Date
.....
Name	Signature	Position	Date

PLEASE RETURN A FAXED COPY OF YOUR APPLICATION TO **(07) 3804 5193** FOR PROCESSING TO BEGIN.
PLEASE NOTE TRADING WILL NOT COMMENCE UNTIL ORIGINAL DOCUMENT HAS BEEN RECEIVED. PLEASE
POST TO OUR NATIONAL HEAD OFFICE: **PO BOX 4724, LOGANHOLME BC, QLD 4129**