

CREDIT APPLICATION



COMPANY DETAILS *This PDF has fillable boxes*

Company Name

Trading Name

Purchase Orders to be supplied Yes No **Preferred payment method** CARD EFT CASH

Postal Address Postcode

Shipping Address

Accounts Payable Phone

Accounts Email

Monthly Credit Required ABN

Online system Access Email for access

TRADE REFERENCE - *Must supply references, with email addresses for your application to be accepted*

Company Contact Name

Email

Company Contact Name

Email

COMPANIES THAT DO NOT PROVIDE TRADE REFERENCES

1. Capricorn 2. JAS 3. Penrite Oil 4. BLA 5. CSR 6. Bunnings 7. BGC 8. Repco 9. BCF
10. Banks 11. Couplers 12. Ashdowns 13. BP

TERMS & CONDITIONS

- I/ We understand and acknowledge that normal trading terms are strictly **30 days From end of Month**, unless a COD account, and that payment will be made immediately on receipt of invoice or purchase. In the month following purchase for all goods sold and delivered or services provided and further understand that upon reaching credit limit or if payment becomes overdue, supply and credit may be suspended until such times as payment is received and cleared.
- I/ We agree that all costs related to recovery of debts incurred shall be my/ our sole responsibility. These costs include any commissions paid to a debt recovery agent.
- I/ We agree that notwithstanding any change in my trading structure, I/ we will remain liable for all goods and services requested by me/ us or my agents.
- I/ We hereby declare that the information in this credit application is true and accurate to the best of my/ our knowledge and authorization is hereby given to confirm and exchange credit information in relation to this application from any source.
- Challenge Batteries will charge a late fee of between \$20-\$50 a week, depending of balance if your account is more then 2 weeks overdue. If you are COD this will be 7 days.

Director/ Partner _____ Signature _____ Date _____

CHALLENGE BATTERIES
ABN 11 009 372 703

TERMS AND CONDITIONS OF SALE

1. Definitions

- 1.1 "Seller" shall mean Challenge Batteries A.B.N. 11 009 372 703 and its successors and assigns.
- 1.2 "Buyer" shall mean the Buyer named in Item 1 of Schedule 1 or any person acting on behalf of or with the authority of the Buyer.
- 1.3 "Guarantor" shall mean the Guarantor (if any) named in Item 2 of Schedule 1.
- 1.4 "ACL" means the Australian Consumer Law comprising the *Competition and Consumer Act 2010 (Cth)* including, without limitation, the Australian Consumer Law.
- 1.5 "Attaches" has the meaning given to it in the PPSA.
- 1.6 "Financing Statement" and "Financing Change Statement" have the meanings given to them in the PPSA;
- 1.7 "Goods" means the goods supplied by the Seller to the Buyer pursuant to these Terms and Conditions.
- 1.8 "GST" has the meaning to it given by section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.
- 1.9 "Perfected" has the meaning given to it by section 21 of the PPSA.
- 1.10 "PMSI" means "Purchase Money Security Interest" as that phrase is defined in the PPSA.
- 1.11 "PPSA" means the *Personal Property Securities Act 2009 (Cth)* as amended or replaced from time to time.
- 1.12 "PPSR" means the Personal Property Securities Register.
- 1.13 "Price" shall mean the cost of the Goods as agreed between the Seller and the Buyer subject to clause 4 of these Terms and Conditions.
- 1.14 "Security Agreement" has the meaning given to it in the PPSA.
- 1.15 "Security Interest" has the meaning given to it by the PPSA.
- 1.16 "Terms and Conditions" means these Terms and Conditions and the Application for Credit attached to these Terms and Conditions.

2. Application of these Terms and Conditions

- 2.1 Each order made by the Buyer is deemed to be a separate and distinct application for credit from the Seller for the purposes of these Terms and Conditions and is subject to acceptance by the Seller.
- 2.2 Upon acceptance of any order by the Seller, these Terms and Conditions have application to that order and the resultant supply of Goods by the Seller to the Buyer.
- 2.3 Notwithstanding acceptance of any order by the Seller, the Seller may at any time alter or suspend credit terms, including these Terms and Conditions, refuse any delivery or cancel unfulfilled orders when, in the Seller's opinion, the financial condition of the Buyer or the status of the Buyer's account justifies such action.

3. Acceptance

- 3.1 The Buyer agrees that the Buyer is bound by these Terms and Conditions and accepts these Terms and Conditions without alteration or erasure (including, without limitation, the Security Agreement contained in these Terms and Conditions) by doing any of the following:
 - (a) signing a document containing these Terms and Conditions; or
 - (b) signing an order form that refers to these Terms and Conditions; or
 - (c) by accepting delivery of, or taking possession of, any Goods.
- 3.2 Where the Buyer comprises more than one person, each of those persons shall be jointly and severally liable for all payments of the Price.
- 3.3 Upon acceptance of these Terms and Conditions by the Buyer, the Terms and Conditions are irrevocable and can only be rescinded in accordance with these Terms and Conditions or with the written consent of the Seller.
- 3.4 The Buyer undertakes to give the Seller not less than fourteen (14) days prior written notice of any proposed change to the Buyer's name and/or any other change in the Buyer's details (including but not limited to, changes in the Buyer's address, telephone number or business practice).
- 3.5 These Terms and Conditions supersede any previous written or oral agreements and understandings between the Seller and Buyer with respect to the Goods supplied by the Seller to the Buyer.

4. Price and Payment

- 4.1 The Price of the Goods will be the Seller's prices prevailing at the time of delivery (which need not be the recommended retail price for the Goods).
- 4.2 The Seller reserves the right to change the Price of the Goods without notice to the Buyer.
- 4.3 Unless otherwise stated, prices do not include GST and other taxes or duties which may be applicable and do not include freight and insurance charges, which, if applicable, will be an extra charge to the Buyer's account.
- 4.4 Time for payment of the Goods is strictly thirty (30) days after the end of the month in which the Goods were purchased by the Buyer.

4.5 Payment may be made by cheque, direct deposit, Bankcard, MasterCard, Visa or by any other method as agreed by the Buyer and Seller. The use of credit cards, when paying existing account debts may attract a processing fee.

4.6 Payments received by the Seller shall be applied on order of money owed by the Buyer to the Seller and not to specific orders.

5. Delivery of Goods

5.1 The Seller will deliver the Goods to the Buyer's address. However, the Buyer may request that the Goods be delivered to the Buyer by the Buyer's own freight provider and the Seller will not unreasonably withhold consent to such request, provided that the Buyer fully insures the Goods for loss and damage during transit to the Buyer. It is the buyers responsibility to arrange such insurance prior to delivery. The seller will deliver the goods on the buyers request without proof of said insurance requirements. If the buyer has not insured the goods for loss and damage during transit the buyer will bear the total cost of any loss and damage to the goods during transit.

5.2 The Buyer shall make all such necessary arrangements to ensure it takes delivery of the Goods whenever they are tendered for delivery.

5.3 The Buyer acknowledges that any delivery dates and/or times stated by the Seller are estimates only, made in good faith by the Seller.

5.4 Under no circumstances shall the Seller be liable to the Buyer for damages, including but not limited to, consequential and special damages, for failure to deliver or delay in delivery to the Buyer howsoever occasioned.

5.5 The Seller is entitled to cancel or suspend delivery of the Goods in the event of any delay or non-performance due directly or indirectly by wars, strikes, lockouts, delays or defaults of manufacturers or suppliers, acts of god, or any other cause (whether similar or dissimilar) beyond the reasonable control of the Seller. The Buyer waives all claims whatsoever against the Seller in consequence of any such cancellation or suspension.

6. Defects and Returns

6.1 The Buyer shall inspect the Goods on delivery and shall within 48 hours of delivery notify the Seller of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Buyer shall afford the Seller an opportunity to inspect the goods within a reasonable time following delivery if the Buyer believes the Goods are defective in any way. If the Buyer fails to comply with this clause, the Goods shall be conclusively presumed to be in accordance with these Terms and Conditions and free from any defect or damage.

6.2 Subject to clause 8.1, the Seller will (at the Seller's discretion) replace the goods or repair the Goods (in accordance with clause 7.4), provided that:

- (a) The Seller has agreed in writing that the Buyer is entitled to return the Goods or have the Goods repaired or replaced;
- (b) The Buyer has complied with the provisions of clause 6.1;
- (c) The Goods are returned at the Buyer's costs within fourteen (14) days of the date of delivery by the Seller's approved carrier;
- (d) A return authorisation number (RA Number) has been issued by the Seller and the Buyer displays the RA Number clearly on the packaging of the Goods;
- (e) The Seller will not be liable for Goods which have not been stored or used in a proper manner;
- (f) 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.

7.3 The Seller may, at its discretion, accept the Goods for credit.

7. Guarantees and Limitation of Liability

7.1 Certain provisions of the ACL apply to the operation of these Terms and Conditions and provide consumers (as that expression is used in the ACL) and others with certain rights (referred to collectively as the consumer guarantees) in relation to goods or services bought by those persons.

7.2 Other than consumer guarantees, which are not excluded, modified or restricted by this provision, the Seller does not give any guarantee or warranty or make any representation of any kind, express or implied, with respect to the supply by the Seller of the Goods.

7.3 The Seller guarantees that the Goods that are delivered by the Seller to the Buyer are of acceptable quality (as that expression is defined in the ACL) on delivery. The Seller may, at the Seller's expense, repair any defects in Goods that are notified to the Seller in writing by the Buyer in accordance with clauses 6.1 and 6.2.

7.4 Other than in respect of goods supplied to consumers, or goods that are of a kind ordinarily acquired for personal, domestic or household use or consumption, the Seller's liability for the breach of any condition or warranty, whether express or implied (other than warranties or conditions in relation to title, encumbrances and quiet possession) is limited, at the Seller's option, to the replacement of the goods, the supply of equivalent goods, the repair of the goods, the payment of the cost of replacing the goods or of acquiring equivalent goods.

7.5 Subject to the rights which the Buyer may have under the ACL, which are not excluded, modified or restricted by this provision, the Seller is not liable to the Buyer or any other person, whether in contract, tort or

otherwise, for any loss or damages (including, without limitation, specific, indirect, consequential or economic loss), howsoever caused arising from any event.

8. The Buyer's Rights under the ACL

- 8.1 Notwithstanding anything contained in these Terms and Conditions, nothing in these Terms and Conditions:
- (a) excludes, restricts or modifies or purports to have the effect of excluding, restricting or modifying any condition or warranty that is implied by, or consumer guarantee specified by, the ACL or the Seller's liability under any such condition, warranty or guarantee; or
 - (b) gives rise to any liability on the Buyer's part or qualifies the Seller's liability in circumstances where the Seller is in breach of these Terms and Conditions, including any conditions or warranties implied, or consumer guarantees specified, by the ACL.

9. Lien and Stoppage in Transit

- 9.1 Where the Seller has not received or been tendered the whole of the price or the payment has been dishonoured, the Seller shall have:
- (a) a lien on the goods;
 - (b) the right to retain them for the price while the Seller is in possession of them;
 - (c) a right of stopping the goods in transit whether or not delivery has been made or ownership has passed; and
 - (d) a right of resale; and
 - (e) the foregoing right of disposal, provided that the lien of Seller shall continue despite the commencement of proceedings or judgment for the price having been obtained.

10. Default and Consequences of Default

- 10.1 A late payment fee on overdue invoices will be between \$10 and \$50 depending on the amount owing. This will be charges weekly from the date when payment becomes due until the date payment in full is received by the Seller.
- 10.2 If the Buyer defaults in payment of any invoice when due, the Buyer shall indemnify the Seller from and against all of the Seller's costs and disbursements including on a solicitor and own client basis and in addition all of the Seller's nominee's costs of collection.
- 10.3 If the Buyer's payment is dishonored by their bank, then the Seller may increase the amount of the Price by any charges for dishonors charged by the Seller's bank and the Buyer shall pay the Seller that amount.
- 10.4 Without prejudice to any other remedies the Seller may have, if at any time the Buyer is in breach of any obligation (including those relating to payment), the Seller may suspend or terminate the supply of Goods to the Buyer and any of its other obligations under these Terms and Conditions. The Seller will not be liable to the Buyer for any loss or damage the Buyer suffers because the Seller exercised its rights under this clause.
- 10.5 In the event that:
- (a) any money payable to the Seller becomes overdue, or in the Seller's opinion, the Buyer will be unable to meet its payments as they fall due; or
 - (b) the Buyer 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 Buyer, then without prejudice to the Seller's other remedies at law:
 - (i) the Seller shall be entitled to cancel all or any part of any order of the Buyer which remains unperformed in addition to and without prejudice to any other remedies; and
 - (ii) all amounts owing to the seller shall, whether or not due for payment, immediately become payable in addition to the interest payable under clause 10.1 above.

11. Seller's Security Interest

- 11.1 The Buyer acknowledges that:
- (a) it grants a Security Interest(s) to the Seller in respect of the Goods purchased from the Seller in accordance with these Terms and Conditions; and
 - (b) these Terms and Conditions constitute a Security Agreement for the purposes of the PPSA.
- 11.2 The Buyer must pay to the Seller all costs and expenses the Seller may incur in:
- (a) preparing, lodging or registering a Financing Statement or Financing Change Statement in relation to any Security Interest(s) granted to the Seller under these Terms and Conditions; and
 - (b) maintaining and amending those registrations; and
 - (c) enforcing any Security Interest(s) granted to the Seller under these Terms and Conditions.
- 11.3 The Buyer agrees to do anything (such as obtaining consents, completing, signing and producing documents and supplying information) which the Seller considers necessary for the purposes of:
- (a) ensuring that the Security Interest is enforceable, Perfected and otherwise effective;
 - (b) enabling the Seller to apply for any registration, or give any notification, in connection with the Security Interest, so that it has the priority required by the Seller; and
 - (c) enabling the Seller to exercise its powers in connection with the Security Interest.
- 11.4 Without prejudice to the liability of the Buyer to pay for the Goods, and notwithstanding delivery of the Goods by the Seller to the Buyer, legal and beneficial title in and to the Goods is retained by the Seller and the Seller

has a Security Interest in the Goods under the PPSA that secures all monies owing by the Buyer to the Seller under these Terms and Conditions until the date:

- (a) There are no longer any amounts owing to the Seller for those Goods;
- (b) The Seller registers a financing statement in respect of those Goods; or
- (c) The Buyer sells or transforms those Goods to a customer for fair market value and the customer has no notice of these Terms and Conditions, whichever date is the earlier.

- 11.5 The Buyer agrees that the Buyer shall only sell Goods in respect of which the Buyer has not made full payment to the Seller on the conditions that any such sale is conducted at arm's length and is for full market value of those Goods and the Seller has not demanded the return of those Goods.
- 11.6 If the Buyer has not fully paid for the Goods and all monies owing to the Seller on any account but sells or otherwise disposes of the Goods, whether in the same form as supplied or in combination with other products or otherwise, the sale proceeds or monies received in respect of the disposal or the amount attributable to the Goods will immediately upon receipt by the Buyer be held by the Buyer as trustee for the Seller until paid to Seller. The Buyer shall hold the proceeds of sale in a separate account and not mixed with the Buyer's other money, debts or property and shall pay the proceeds of sale to the Seller immediately without demand.
- 11.7 The Buyer acknowledges and agrees that the Seller's Security Interest in the Goods (and proceeds of the Goods referred to in clause 11.6) is a PMSI to the extent that it secures payment of the amounts owing in relation to the Goods.
- 11.8 The Buyer agrees that it will not grant or seek to grant any Security Interest in the Goods adverse to the Seller's Security Interest in the Goods.
- 11.9 The Buyer acknowledges and agrees that the Seller may apply any monies received from the Buyer first to satisfy any portion of debt that is unsecured, second to satisfy any portion of debt that is secured but not by a PMSI and third to satisfy any portion of debt that is secured by a PMSI, or in any other manner the Seller sees fit.
- 11.10 Until and unless the Buyer has paid the Seller in full for the Goods, the Buyer shall hold those Goods as the Seller's bailee and return those Goods to the Seller on demand.
- 11.11 All risk in the Goods shall, unless otherwise agreed in writing, pass to the Buyer upon delivery (whether by delivery to the Buyer or by delivery to another person on the Buyer's instructions) and the Buyer shall insure and maintain insurance for the Goods for their full replacement value. The Buyer shall provide evidence of such insurance if required by the Seller.
- 11.12 Until payment in full has been received by the Seller from the Buyer in accordance with these Terms and Conditions, the Buyer authorizes and grants an irrevocable license to the Seller and the Seller's authorized representatives, to enter any premises where Goods for which payment in full has not been received by the Seller are kept to re-take possession of those Goods and to use all reasonable force in doing so without any liability for any resulting damage. The Buyer agrees and acknowledges that, in addition to any other rights under these Terms and Conditions or otherwise arising, the Seller or its authorized representative may exercise any and all remedies afforded to a secured party under Chapter 4 of the PPSA including, without limitation, entry into any building or premises owned or occupied or used by the Buyer, to search for and seize, dispose of or retain those Goods in respect to which the Buyer has granted to the Seller a PMSI.
- 11.13 The parties agree that the following provisions of the PPSA, to the extent referred to below, shall not apply and shall not place any obligations on the Seller in the Buyer's favor:
 - (a) Sections 95 and 130 of the PPSA, to the extent that the Seller is required to give a notice to the Buyer; and
 - (b) Sections 96, 125, 129(2), 132(3)(d), 132(4) and 135 of the PPSA.
- 11.14 The Buyer waives its right to receive any notice under the PPSA (including notice of a verification statement after registration or variation of a registration) in respect of any Financial Statement or Financing Change Statement relating to any security interest created under these Terms and Conditions unless the notice is required by the PPSA and cannot be excluded.
- 11.15 The Buyer shall ensure that it, and any other person who seeks to identify the Goods, is always able to identify the Goods from any other goods that may be in the Buyer's possession and identify the particular Goods to which any invoice from the Seller relates.

12. Security and Charge

- 12.1 Despite anything to the contrary contained herein and in addition to any other rights which the Seller may have:
 - (a) where the Buyer and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being charged, both the Buyer 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 the Seller or the Seller's nominee to secure all amounts and other monetary obligations payable under these Terms and Conditions. The Buyer and/or the Guarantor acknowledge and agree that the Seller (or the Seller's nominee) shall be entitled to lodge where appropriate, a caveat on the title to any property in the Buyer and/or Guarantor's name, which caveat shall be released once all payments and other monetary obligations payable hereunder have been met.

- (b) Should the Seller elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Buyer and/or the Guarantor shall indemnify the Seller from and against all the Seller's costs and disbursements including legal costs on a solicitor and own client basis.

13. Cancellation

- 13.1 The Seller may cancel these Terms and Conditions or cancel delivery of Goods at any time before the Goods are delivered by giving written notice. Subject to clause 8.1, the Seller shall not be liable for any loss or damage whatever arising from such cancellation.

14. Privacy Act 1988

- 14.1 The Buyer and/or Guarantor/s agree for the Seller to obtain from a credit reporting agency a credit report containing personal credit information about the Buyer and Guarantor/s in relation to credit provided by the Seller.
- 14.2 The Buyer and/or Guarantor/s agree that the Seller may exchange information about the Buyer and Guarantor/s with those credit providers named in the Application for Credit account or named in a consumer credit report issued by a reporting agency for the following purposes:
- (a) to assess an application by the Buyer;
 - (b) to notify other credit providers of a default by the Buyer;
 - (c) to exchange information with other credit providers as to the status of this credit account, where the Buyer is in default with other credit providers; and
 - (d) to assess the credit worthiness of the Buyer and/or Guarantor/s.
- 14.3 The Buyer consents to the Seller being given a consumer credit report to collect overdue payment on commercial credit in accordance with section 18K(1)(h) of the *Privacy Act 1988 (Cth)*.
- 14.4 The Buyer agrees that personal data provided may be used and retained by the Seller for the following purposes and for other purposes as shall be agreed between the Buyer and Seller or required by law from time to time:
- (a) provision of Goods;
 - (b) marketing of Goods by the Seller, its agents or distributors in relation to the Goods;
 - (c) analyzing, verifying and/or checking the Buyer's credit, payment and/or status in relation to provision of Goods;
 - (d) processing of any payment instructions, direct debit facilities and/or the collection of amounts outstanding in the Buyer's account in relation to the Goods.
- 14.5 The Seller may give information about the Buyer to a credit reporting agency for the following purposes:
- (a) to obtain a consumer credit report about the Buyer; and/or
 - (b) allow the credit reporting agency to create or maintain a credit information file containing information about the Buyer.

15. Unpaid Seller's Rights to Dispose of Goods

- 15.1 In addition to rights that the Seller may have under clause 11 and to the fullest extent permitted by law, in the event that:
- (a) the Seller retains possession or control of the Goods; and
 - (b) payment of the price is due to the Seller; and
 - (c) the Seller has made demand in writing of the Buyer for payment of the Price in terms of this contract; and
 - (d) the Seller has not received the Price of the Goods, then whether the property in the Goods has passed to the Buyer or has remained with the Seller, the Seller may dispose of the Goods and may claim from the Buyer the loss to the Seller on such disposal.

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 All Goods supplied by the Seller are subject to the laws of Victoria.
- 16.3 Subject to clause 8.1, the Seller shall be under no liability whatsoever to the Buyer for any indirect loss and/or expense (including loss of profit) suffered by the Buyer arising out of a breach by the Seller of these Terms and Conditions.
- 16.4 Subject to clause 8.1, in the event of any breach of this contract by the Seller, the remedies of the Buyer shall be limited to damages and the liability of the Seller shall not exceed the price of the Goods.
- 16.5 The Buyer shall not set off against the Price amounts due from the Seller.
- 16.6 The Seller may license or sub-contract all or any part of its rights and obligations without the Buyer's consent.
- 16.7 The Seller reserves the right to review these Terms and Conditions at any time and from time to time. If, following any such review, there is to be any change in such Terms and Conditions, that change will take effect from the date on which the Seller notifies the Buyer of such change.
- 16.8 Neither party shall be liable for any default (other than the payment of money) due to any act of God, war, terrorism, strike, lockout, industrial action, fire, flood, drought, storm or other event beyond the reasonable control of either party.

SCHEDULE 2 GUARANTEE AND INDEMNITY

TO: Challenge Batteries A.B.N. 11 009 372 703
of 1 Burgay Court, Osborne Park 6017 WA Australia (hereinafter called "the Credit Provider")

WE.....AND.....
of

(hereinafter called "the Guarantors") in consideration of the Credit Provider having agreed, at the request of the Buyer named in item 1 of Schedule 1 of these Terms and Conditions (hereinafter called "the Credit Receiver"), subject to the Credit Provider having this Guarantee, to enter into these Terms and Conditions (hereinafter called "the Credit Facility") with the Credit Receiver, hereby jointly and severally covenant and agree with the Credit Provider as follows:-

1. The Guarantors hereby jointly and severally unconditionally guarantee to the Credit Provider the due and punctual payment by the Credit Receiver of all money, interest and other monies payable or recoverable from the Credit Receiver under or pursuant to or in connection with the Credit Facility and the due and punctual performance and observance of all terms, conditions and obligations contained or implied in the Credit Facility and on the part of the Credit Receiver to be performed and observed.
2. If any of the obligations hereby guaranteed are not at any time enforceable against the Credit Receiver this Guarantee shall be construed as an indemnity and the Guarantors hereby jointly and severally indemnify and undertake to keep the Credit Provider indemnified in respect of any failure by the Credit Receiver to make any payment or perform or observe any term, condition or obligation referred to in Clause 1 of this Guarantee and Indemnity.
3. The liability of the Guarantors (and of each of them) shall not be affected by the Credit Provider granting any time or other indulgence to or compounding with the Credit Receiver.
4. This Guarantee shall continue to be binding notwithstanding that the monies owing under the Credit Facility may be assigned or transferred to another person or that the Credit Provider's interest under the Credit Facility may be assigned or transferred to any such person at the time of or subsequent to the aforementioned assignment or transfer and the Guarantors (and each of them) hereby agree to waive each and all of his and their rights as guarantors whether legal, equitable, statutory or otherwise which may at any time be inconsistent with the provisions of this Guarantee and Indemnity or any way restrict the Credit Provider's rights, remedies or recourse.
5. Any demand or notice under this Guarantee may be signed on behalf of the Credit Provider by its solicitors and may be served by delivering the same to the Guarantor to whom such notice or demand is addressed by posting the same to him at his address appearing herein or as notified to the Credit Provider in writing by the said Guarantor, and, if posted, such demand or notice shall be deemed to have been served on the day following the date of posting provided however that the making of a demand shall not be a condition precedent to the liability of the Guarantors (or any of them) herein.
6. The Guarantors will pay to the Credit Provider all sums of money received by the Credit Provider for the credit of the Credit Receiver and for which the Credit Provider may, in any liquidation or official management of the Credit Receiver, be obliged to account to any liquidator or official manager or other person or may in his discretion so account.
7. This Guarantee shall bind each Guarantor and his personal representatives and shall not be in any way affected by the death or bankruptcy of any of the Guarantors or the winding up of the Credit Receiver.
8. This Guarantee shall be continuing Guarantee for the purposes of securing the payment of the whole of the monies aforesaid and the performance of the whole of the terms, conditions and obligations as aforesaid notwithstanding any partial payment or performance thereof.
9. A Certificate signed by the Credit Provider or by the Solicitors for the Credit Provider as to any sum payable to the Credit Provider pursuant to this Guarantee and Indemnity as at the date set out in such Certificate shall be in all Courts and at all times prima facie evidence of the facts stated therein.
10. The Guarantors charge all of their right, title and interest (joint or several) in any land, realty, or other assets capable of being charged, owned by the Guarantors now or in the future, to secure the performance by the Guarantors of their obligations under this Guarantee and Indemnity (including, but not limited to, the payment of any money) and the Guarantors acknowledge that this personal Guarantee and Indemnity constitutes a security agreement for the purposes of the Personal Property Securities Act 2009 (Cth) ("PPSA") and unequivocally consents to the Credit Provider registering any interest so charged. The Guarantors irrevocably appoint the Credit Provider and each director of the Credit Provider as the Guarantors' true and lawful attorney(s) to perform all necessary acts to give effect to this clause including, but not limited to, signing any

- document on the Guarantors' behalf which the Credit Provider might reasonably require to:
- (a) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
 - (b) register any other document required to be registered by the PPSA or any other law; or
 - (c) correct a defect in a statement referred to in clause 10(a) or (b) above.

SIGNED _____

Date _____