

TERMS AND CONDITIONS OF TRADE

Definitions

1. In this agreement:

- 1.1 'Agreement' means this Commercial Credit Application Agreement including Terms and Conditions of Trade and including the Guarantee and Indemnity contained therein;
- 1.2 'Business Day' means any day on which banks in the capital city of the State which governs the law of this Agreement are open;
- 1.3 'Customer, you, them' means the person(s), company or business entity, their successors and assigns who has applied to Armadale Steel for the supply of goods and/or services and includes any Guarantors of the Customer;
- 1.4 'Delivery' means the loading of goods upon a transport vehicle;
- 1.5 'Goods' means goods for sale, and/or services offered, by Armadale Steel to Customers;
- 1.6 'GST' means the Goods and Services Tax levied on any supply made under this Agreement under the A New Tax System (Goods and Services Tax) Act 1999 as amended from time to time or any similar tax resulting in an increase in the tax payable on the supply of goods by Armadale Steel to the Customer;
- 1.7 'Guarantor(s)' means the person(s), company or business entity, their successors and assigns named in the Guarantee and Indemnity;
- 1.8 "PMSI" means payment money security interest.
- 1.9 "PPSR" means personal property security register.
- 1.10 'Armadale Steel' means Armadale Steel and Industrial Supplies ABN 44 598 548 141 its successors and assigns

Acknowledgments and Privacy Act Authority

2. The Customer:-

- 2.1 applies to Armadale Steel for a Credit Facility;
- 2.2 acknowledge Armadale Steel may accept or reject such application in its absolute discretion;
- 2.3 declares that the information provided is true and correct and has been provided to induce Armadale Steel to grant the application;

2.4 agrees that:-

- 2.4.1 this Agreement (as varied from time to time) forms part of every transaction between Armadale Steel and the Customer, and shall prevail over all conditions of the customer's order to the extent of any conflict;
- 2.4.2 Armadale Steel may vary this Agreement by written notice. Any notice given under this Agreement shall be given in writing and delivered, mailed or faxed or transmitted by electronic mail to the respective parties at their designated address. Armadale Steel's designated address is set out above. The Customer's designated address is deemed to be the address stated in this Agreement or the Customer's registered office. Any party may change its designated address by prior notice in writing to the other.
- 2.5 and each of the officers of the Customer and any Guarantor/s gives consent to Armadale Steel to:
 - 2.5.1 disclosing and obtaining personal information to and/or from another credit provider or credit reporting agency including information relating to the commercial creditworthiness and personal creditworthiness of them;
 - 2.5.2 using any information obtained for the purposes of assessing this credit application, collecting payments due under this Agreement and notifying other credit providers of the commercial credit worthiness of them;
 - 2.5.3 disclose information about you where it has a duty to the public to disclose that information, and/or where it is required by law;
 - 2.5.4 register any security interest on any register (e.g. registering a PMSI on the PPSR.);
 - 2.5.5 receive advertising material from Armadale Steel.
- 2.6 may at any time gain access, upon request, to the information held about you.

Acceptance

3. Armadale Steel may accept this application by notice in writing, or by giving credit.

Credit Limit

4. The credit limit is the amount notified to the Customer from time to time by Armadale Steel. Any credit provided in excess of the credit limit shall be repayable immediately.

TERMS AND CONDITIONS OF TRADE

Provision of Credit

5. The Customer may obtain goods or services on credit up to the amount of the credit limit. Armadale Steel reserves the right to refuse the supply of goods on credit and may (in its discretion) suspend the provision of credit in the event of:

5.1 breach of any term of this Agreement;

5.2 the Customer exceeds the credit limit.

Purchase Orders

6. Each order of goods by the customer shall constitute an offer to purchase. Acceptance of such offer shall occur upon delivery (as defined herein). Armadale Steel may refuse to accept any order for goods in whole or part without ascribing any reason and without any liability.

Charges

7. Armadale Steel may impose charges in respect of:

7.1 a fee equal to whatever fee is charged by Armadale Steel's bankers for payment dishonour;

7.2 interest at the rate of 10% simple interest per annum on overdue payment;

8. The Customer agrees to pay all Government charges or duties of any kind incurred in or in connection with the provision of credit by Armadale Steel including without limitation all stamp duties, GST, financial institution duties, and any other charges or duties of a like kind.

9. The Customer will pay to Armadale Steel all costs, charges and expenses incurred by Armadale Steel, on an indemnity basis, in relation to any action taken by Armadale Steel in respect of this Agreement. The Customer agrees that Armadale Steel, after having demanded payment of a sum overdue, may apply any payment made by the Customer, first against Armadale Steel's costs and disbursements in recovering the sum due; second against any interest accrued and finally against the amount overdue.

Payment

10. The Customer agrees to pay the amount shown on any invoice or statement for goods or services supplied by Armadale Steel plus any additional fees and charges applicable thereto either by the last business day of the month immediately following the month of delivery or supply, or by the time stated for payment in any delivery dockets, invoices or statements issued by Armadale Steel, whichever is the earlier. A certificate signed by Armadale Steel's Management stating the amount owed by the Customer shall be conclusive proof of the amount owed unless the Customer proves otherwise. If the Customer consists of one or more persons or entities then each person or entity is jointly and severally liable.

Payment options

11. The Customer may pay any monies owed to Armadale Steel by:-

11.1 Cash;

11.2 Cheque to the address shown on the monthly statement; or

11.3 Electronic Funds Transfer.

Termination

12. Either party may terminate this Agreement at any time by notice to the other in writing. Upon termination, all amounts owing will become due and payable immediately.

Waiver Variation

13. No waiver or indulgence by Armadale Steel will be a Waiver of Armadale Steel's rights with respect to any breach or recurring breach. No variation of this agreement shall be effective without Armadale Steel's consent in writing.

Time of the Essence

14. Time is of the essence for the performance of the Customer's obligations.

Proper Law

15. This Agreement is governed by the laws of the State of Western Australia and the Customer consents to the jurisdiction of the Courts of the State of Western Australia

Retention of Title

16. Notwithstanding the risk in the goods shall have passed to the Customer, title and property in all goods shall remain with Armadale Steel until full payment is made to Armadale Steel for all moneys owing by the Customer on all accounts.

If the Customer fails to make payment for the goods in accordance with this Agreement, Armadale Steel shall have the right to recover from the Customer all goods it has supplied to the Customer in the customer's possession whether paid for or not, and for that purpose the servants or agents of Armadale Steel may enter upon the Customer's premises (or any premises under the control of the Customer or the Customer's agent if the goods are stored at other premises) in order to effect recovery and use any reasonable force to effect recovery without liability for trespass or any resulting damage. Armadale Steel shall have the right to re-sell or otherwise dispose of the goods so recovered without reference to the Customer.

The Customer acknowledges that until the Customer's total indebtedness to Armadale Steel is discharged, the Customer shall hold the goods as bailee for Armadale Steel.

TERMS AND CONDITIONS OF TRADE

In the event that the Customer sells the goods to a third party before payment in full for the goods has been made to Armadale Steel then the Customer hereby:

- 16.1 assigns to Armadale Steel the benefit of any claim against such third party; and
- 16.2 will account fully to Armadale Steel for the proceeds of the sale of the goods sold or any part thereof until the Customer's total indebtedness to Armadale Steel is discharged.

Liability of Armadale Steel

17. If either Armadale Steel or the Customer is unable to perform part or all of any obligation (except to pay any moneys) under this Agreement due to an event beyond that party's (defaulting party) control and which the defaulting party could not have reasonably foreseen, then the defaulting party is relieved of that obligation to the extent and for the period that it is unable to perform and is not liable to the other party to this Agreement in respect of such liability.
18. If the Customer does not notify Armadale Steel in writing within 14 days of delivery of any claim in respect of the goods Armadale Steel will be deemed to have complied with its obligations in full in respect of the Customer's order.
19. Armadale Steel shall not be under any liability whether in contract, tort or otherwise from any cause, whether occasioned by negligence or otherwise, for any injury, damage or loss, including special, indirect or consequential damage or loss or whether to persons or property, arising out of this Agreement including any defects in the goods.
20. All express and implied terms, conditions and warranties on the part of Armadale Steel which might otherwise apply to or arise out of the sale of the goods by Armadale Steel to the Customer are excluded, except to the extent that any law does not permit them to be excluded.
21. Risk in respect of the goods passes to the customer upon delivery (as defined herein).

Licences and Permits

22. The Customer warrants that it holds all necessary licences and permits (if any) required to purchase goods from Armadale Steel and it will supply any particulars relating to such licences and permits immediately upon request by Armadale Steel.

Warranty and Indemnity

23. The Customer warrants it has all necessary power and authority to enter into this Agreement, that it will not breach any agreement with a third party by ordering any goods from Armadale Steel and that any person ordering goods on behalf of the Customer from time to time is authorized to do so by the Customer. The Customer agrees to indemnify Armadale Steel for all costs, losses, damages and expenses which Armadale Steel may suffer or incur for any reason in consequence of or relating to the supply of goods to

the Customer, including by reason of any person purporting to place orders with Armadale Steel on behalf of the Customer without authority to do so.

Set Off

24. Armadale Steel may at any time set off any amount the Customer owes to Armadale Steel against any amount Armadale Steel may then owe to the Customer. The Customer may not set off or deduct any amount from moneys owed to Armadale Steel.

Change in Ownership or Registration Particulars

25. The Customer shall no later than 7 days after any change of ownership, registered particulars, alteration, addition to the shareholding or directorship, notify Armadale Steel of any such change, alteration or addition, and shall provide full details of the change, alteration or addition to Armadale Steel in writing. The Customer shall continue to be liable for any goods supplied by Armadale Steel after such change, alteration or addition unless Armadale Steel shall have approved such changes in writing, and if necessary, the customer's changed identity has applied for and had approved a new credit account. The Customer may not assign this Agreement without the written consent of Armadale Steel.

Disposal of Business

26. The Customer shall promptly notify Armadale Steel in writing of
 - 26.1 its intention to sell its business at least 14 days prior to the date of completion of the sale;
 - 26.2 any proposal for the appointment of a receiver or liquidator or official manager of the business; and
 - 26.3 any circumstances likely to lead to the appointment of a receiver, administrator, liquidator or official manager of the business.

In such circumstances the Customer shall at the request of Armadale Steel separate all of the goods supplied by Armadale Steel from all other stock of the Customer and shall advise the purchaser, receiver, administrator, liquidator or official manager, as the case may be, that the stock so separated is Armadale Steel's and shall do all things to give Armadale Steel access and deliver to Armadale Steel or cause to be delivered to Armadale Steel all such goods.

Default

27. If the Customer breaches any term of this Agreement and fails to remedy that breach, including failure to pay to Armadale Steel any moneys due to Armadale Steel by the due date for payment, or a receiver, manager, liquidator, provisional liquidator, administrator or official manager is appointed over all or any part of the assets or undertaking of the Customer, or if the Customer enters into or proposes to enter into a scheme of arrangement, or a petition is presented to wind up the Customer or the Customer is insolvent, (default) Armadale Steel may:-

- 27.1 demand immediate payment of all moneys

TERMS AND CONDITIONS OF TRADE

owed by the Customer to Armadale Steel whether due for payment or not; and/or for cash or on terms and in such manner as Armadale Steel thinks fit, and apply the net proceeds towards payment of the customer's debt to Armadale Steel; and/or

27.2 repossess any goods supplied; and/or

27.3 sell any goods which Armadale Steel has repossessed by public auction or private treaty

27.4 terminate this Agreement, and/or

27.5 cease supply.

Securities

28. In order to better secure to Armadale Steel all monies payable or to become payable pursuant to this Agreement the Customer:-

28.1 hereby as beneficial owner charges in favour of Armadale Steel by way of a fixed charge any right, title, estate or interest which the Customer (and if more than one jointly and severally) has or may hereafter acquire in any freehold or leasehold property and personal property (chattels), with the payment of all such monies payable or to become payable by the Customer.

28.2 grants to Armadale Steel a legal mortgage of any land now or hereafter held by the Guarantors the terms and conditions of which are contained in (and are hereby incorporated into this Guarantee by reference to) Registered Document Number 704242948 (QLD), Registered Document Number 7044794 (NSW), Registered Document Number AA700(VIC) , Registered Document 1172376 (ACT), Registered Document M203 (TAS) , Registered Document Number 8941498 (SA), Registered Document Number H526208 (WA), Registered Document Number 371888 (NT).

28.3 shall grant a non-lapsing caveat over any freehold or leasehold property.

28.4 will execute all documents as may be required to give effect to the intention of this agreement;

28.5 hereby irrevocably appoints all and any of Armadale Steel's management and or attorney as the Customer's attorney for the purposes of doing all such acts and things and executing all such documents necessary to enable Armadale Steel to register either a nonlapsing caveat, mortgage or security interest over any such property.

28.6 consents to registration of any security interest on any register (e.g. registering a PMSI on the PPSR);

28.7 agrees that "expenses" means expenses of preparation, execution, stamping, registration, lodgement and enforcement, discharge or withdrawal of any caveat or mortgage and all legal costs on an indemnity basis to which Armadale Steel is put as a result of taking steps to protect, recover and/or enforce in any way, the charge(s) created.

Service of Process

29. The Customer agrees that service of legal process may be made by prepaid post to the Customer's address stated in this Agreement or the Customer's registered office or such other address as may be notified in writing by the Customer and that service shall be deemed to have been effected 2 days after the date of posting.

Electronic Communication

30. By visiting Armadale Steel's website or sending e-mails To Armadale Steel, the Customer is communicating with Armadale Steel electronically. The Customer:-

30.1 consents to receive communications from Armadale Steel electronically;

30.2 agrees that all agreements, notices, disclosures and other communications that are provided to the Customer electronically satisfy any legal requirement that such communications be in writing

Armadale Steel has made all reasonable efforts to Ensure that all information provided on Armadale Steel's website is accurate at the time of inclusion but makes no representation or warranties, express or implied, except as imposed by law, regarding the information provided on the website, including any hypertext links or any other items used either directly or indirectly from the website and reserves the right to make changes and corrections at any time without notice. Armadale Steel takes no responsibility for and does not endorse, sponsor or recommend the contents, accuracy or performance of any links attached to the website. Armadale Steel accepts no responsibility for any inaccuracies or omissions in the website and any decisions based on information contained in the website are solely the responsibility of the Customer. Armadale Steel accepts no liability for any direct, indirect, special, consequential or other losses or damages of whatsoever kind arising out of access to, or the use of the website or any information contained therein.

Severability

31. In the event that any clause or part of a clause of this Agreement is void, invalid, illegal, unlawful or otherwise unenforceable, that clause or part of a clause is deemed to be severed from this contract and of no force or effect so that all other clauses and parts of clauses of this Agreement continue to remain in full force and effect.

TERMS AND CONDITIONS OF TRADE

COMPANY OR CORPORATE TRUSTEE - PLEASE SIGN BELOW

Signed on behalf of the Company under Company Seal, or without Company Seal, in accordance with Section 127(a) of the Corporations Act.

Company Name <input type="text"/>	Company Seal <input type="text"/>
Director <input type="text"/>	
Director / Secretary Signature <input type="text"/>	
Date <input type="text" value="/ /"/>	

SOLE TRADER, PARTNERSHIP OR NON-CORPORATE TRUSTEE - PLEASE SIGN BELOW

Name: <input type="text"/>	
Signature: <input type="text"/>	Date: / / <input type="text"/>

Name: <input type="text"/>	
Signature: <input type="text"/>	Date: / / <input type="text"/>

Name: <input type="text"/>	
Signature: <input type="text"/>	Date: / / <input type="text"/>