

**CUSTOMER:** Trade  Private   
 Limited Liability Company  Partnership  Sole Trader  Other .....

**Legal Name:** .....

Company Number if a company : .....

Delivery Address: .....

Postal Address: .....

Email Address for invoicing: ..... Telephone: ..... Fax: .....

Accounts Contact: ..... Email:.....

Sales Contact: ..... Email:.....

**Name and Address of Directors / Partners / Proprietors / Shareholders**

Name:	Designation:	Residential Address and Telephone Number:
.....	.....	.....
.....	.....	.....

Nature of Business: ..... Expected Monthly Purchases: .....

**CREDIT REFERENCES:** Name, address and telephone numbers (minimum of 3 regular established accounts; no banks, utilities or competitors)

1. ....
2. ....
3. ....

**DECLARATION AND AGREEMENT:**

In consideration of us agreeing to supply Goods to the Customer named above, you (or in the case of a Customer that is not a private individual, on behalf of the Customer you):

1. agree to the Terms of Trade attached to this form; and
2. declare that the information supplied in this form is correct.

Full Name: ..... Signed:.....

Designation: ..... Date:.....

**GUARANTEE:**

In consideration of **INDUSTRIAL WHOLESALE LIMITED** agreeing to supply Goods to the Customer at my/our request:

1. I/We unconditionally guarantee to **INDUSTRIAL WHOLESALE LIMITED** the due and punctual payment by the Customer of all moneys payable in accordance with the Terms of Trade set out on the reverse side of this form as and when the same become due and payable by the Customer.
2. I/We agree to be deemed as principal debtor for all accounts held by the Customer with **INDUSTRIAL WHOLESALE LIMITED**.
3. I/We agree that this guarantee shall be a continuing guarantee and shall not be discharged by any settlement or payment of account and that this guarantee is both joint and several.
4. I/We agree that our liability under this guarantee shall not be discharged, abrogated, prejudiced or affected by:
  - a. the granting of time, credit or the indulgence or other concession to the Customer;
  - b. any alteration, modification, variation or addition to any agreement in respect of the supply of goods and services; or
  - c. any other act, omission or event which but for this provision might operate to discharge, impair or otherwise affect, my/our obligations under this guarantee or any powers or remedies conferred upon **INDUSTRIAL WHOLESALE LIMITED** by this guarantee or by law.
5. I/We confirm that I/we have been advised by **INDUSTRIAL WHOLESALE LIMITED** that I/we should seek legal advice before signing this guarantee.

Name: ..... Signed: ..... Designation: .....

**Witness Name:** ..... **Witness Signed:** ..... **Date:** .....

Name: ..... Signed: ..... Designation: .....

**Witness Name:** ..... **Witness Signed:** ..... **Date:** .....

**For SUPPLIER Use Only:** Credit Limit \$ .....

Customer No: .....

Code: ..... Authorised by: .....

Reference Check:..... Approved by:.....

## TERMS AND CONDITIONS – INDUSTRIAL WHOLESALE LIMITED

### 1. DEFINITIONS

- 1.1 "Company" means Industrial Wholesale Limited, its successors and assigns or any person acting on behalf of and with the authority of Industrial Wholesale Limited.
- 1.2 "Customer" means the Customer (as more fully defined in the Schedule), any person acting on behalf of and with the authority of the Customer, or any person purchasing Goods from Industrial Wholesale Limited.
- 1.3 "Goods" means the goods or products supplied by Industrial Wholesale Limited to the Customer pursuant to these terms and conditions, and contained in the Schedule.
- 1.4 "Guarantor" means any person, persons or entity who agrees to be liable for the debts of the Customer on a principal debtor basis.
- 1.5 "Intellectual Property" means the content and design of all Goods and branding, including without limitation, trademarks, copyrights, registered designs, symbols and logos.
- 1.6 "Schedule" means any quote, account form or other document attached to these terms and conditions.
- 1.7 "Price" means the price payable for the Goods, inclusive of GST and together with any freight charges or other disbursements, as agreed and as more fully defined in the Schedule.

### 2. ACCEPTANCE

- 2.1 These terms and conditions apply to all orders for the supply of the Goods made by the Customer with the Company.
- 2.2 By requesting the Company supply the Goods to the Customer, the Customer acknowledges and agrees (or is deemed to have acknowledged and agreed) to these terms and conditions.

### 3. PRICE AND PAYMENT

- 3.1 All Goods are supplied at the Price on the delivery date, unless otherwise agreed in writing.
- 3.2 Payment for the Goods shall be made in full on or before the 20<sup>th</sup> day of the month following the date of the invoice ("the due date"), unless otherwise agreed.
- 3.3 Interest may be charged on any amount owing after the Due Date at that rate of 4% per month.
- 3.4 The Customer will be liable for all expenses incurred by the Company in recovering any debt, including but not limited to, collection agency fees, legal fees (including costs on a solicitor client basis) and court costs inclusive of Disputes Tribunal.

### 4. OWNERSHIP AND DELIVERY

- 4.1 Notwithstanding the passing of risk, ownership of the Goods shall remain the sole property of the Company until payment by the Customer is made in full.
- 4.2 If any Goods are sold prior to payment by the Customer in full then the proceeds of the sale thereof shall be the sole property of the Company until payment by the Customer is made in full.
- 4.3 Delivery will occur when the Company hands possession and control of the Goods to the Customer or a third party for transportation.
- 4.4 The Goods will thereafter be at the sole risk of the Customer and all costs of insurance, freight and delivery shall be paid by the Customer. The Company will not be liable for any damage suffered by the Customer due to non-performance, non-delivery or delay in delivery of the Goods howsoever arising through no fault of the Company.
- 4.5 Claims for damage or loss in transit must be made against the carrier in the prescribed manner.
- 4.6 Claims for error or short delivery must be made to the Company in writing, quoting the invoice number, and within 7 days.

### 5. RETURNS

- 5.1 No returns will be accepted unless previously agreed in writing by the Company.

### 6. PERSONAL PROPERTIES SECURITIES ACT 1999 ("PPSA")

- 6.1 The Customer grants to the Company a security interest in the goods and their proceeds.
- 6.2 On the Company's request, the Customer agrees to promptly execute any document and do anything else required to ensure the security interest created under these terms and conditions constitutes a first ranking perfected security interest over the Goods.

- 6.3 The Customer must provide the Company with any information reasonably required to complete a financing statement or a financing change statement. The Customer must also advise the Company immediately in writing of any changes to information you have provided, including changes in name, company name and trading name.
- 6.4 The Customer waives any right to receive a copy of the Verification Statement under the PPSA.
- 6.5 The Customer will pay all of the Company's costs, expenses and other charges incurred, expended or payable by the Company in relation to the filing of a financing statement or a financing change statement.
- 6.6 The Customer agrees that nothing in sections 114(1)(a), 117(1)(c), 133 and 134 of the PPSA shall apply to these terms and conditions and the Customer agrees that its right as debtor in sections 116, 119, 120(2), 121, 125, 126, 127, 129, 131 and 132 of the PPSA shall not apply to these terms and conditions.

### 7. LIMITATION OF LIABILITY

- 7.1 Without restricting the limitations of liability contained elsewhere in these terms and conditions, the Company's liability in relation to the supply of the Goods is limited to the Price in respect of which such liability arises.
- 7.2 The limitation of liability and responsibility includes any direct, indirect or consequential injury, loss or damage of whatever type or however so arising.

### 8. INTELLECTUAL PROPERTY

- 8.1 Any Intellectual Property rights and interest owned by or used by the Company in connection with its business belong to or are licenced to the Company. The Customer may not use any of the Intellectual Property without written consent of the Company, except as otherwise provided in these terms and conditions.
- 8.2 The Customer agrees to use any brand name or logo, if required by the Company, when advertising the Goods or anywhere the Goods are described or named, including labels and invoices.
- 8.3 The Company grants to the Customer a personal, non-exclusive, non-transferable and non-assignable license to use any brand or logo for the purposes of clause 8.2 above.
- 8.4 The Customer must not use or permit the use of any brand or logo in any manner that would be detrimental to or inconsistent with the good name, good will, reputation and image associated with the Intellectual Property or the Company.
- 8.5 The Customer must obtain the Company's prior written approval of the manner in which the Customer intends to use the brand name or logo.
- 8.6 The Company may revoke the above licence by written notice to the Customer at any time.

### 9. GENERAL CONDITIONS

- 9.1 The Company may change these terms and conditions from time to time by notice to the Customer in writing.
- 9.2 If the Company fails to enforce any term or exercise any right under these terms and conditions, this will not constitute a waiver of that right.
- 9.3 The Customer may not assign or subcontract any rights or obligations under these terms and conditions without the written consent of the Company.
- 9.4 If any provision of these terms and conditions is held to be invalid or unenforceable for any reason, the remaining provisions will remain in full force and effect and the parties shall be adjust their respective rights and obligations accordingly with the spirit and intent of the parties shown by the terms and conditions.