



Trade Account Application

THIS AGREEMENT IS MADE BETWEEN

ATLAS PEARLS LTD of 26 Railway Road, Subiaco, Western Australia 6008 (ABN 32 009 220 053) (“the Supplier” or “Atlas”)

AND the entity whose name is set out in the Schedule under the heading “Company Name” or “Proprietor/Partner 1 and Proprietor/Partner 2” (“the Customer” or “we” or “us” or “our”).

- WHEREAS –
- a) The Customer wishes to establish a trading account with the Supplier and has submitted to the Supplier the information set out in the Schedule.
 - b) The Customer and the Supplier agree that in the event the Supplier grants to the Customer a trading account then that trading account will be on the terms and conditions set out herein and overleaf.

SCHEDULE

APPLICANT (CUSTOMER) DETAILS	
Trading Name:	
Full Legal Business Name:	
Tax Registration No (GST/VAT/Other) if applicable	
Country of Registration:	
Business Structure	<input type="checkbox"/> Company <input type="checkbox"/> Sole Trader <input type="checkbox"/> Partnership <input type="checkbox"/> Other
Is the Applicant a trustee of a trust?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If Yes, please state the name of the Trust:	
Establishment date	
Phone:	
Street Address:	
Postal Address: <small>(if different to street address)</small>	
Industry Trading In: <small>(type of business)</small>	
Date Business Commenced:	Date of Incorporation: <small>(if different)</small>
Have you ever traded under another trading name?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes please state:	

DETAILS OF PROPRIETORS OR PARTNERS (for Sole Traders or Partners only)

PROPRIETOR/PARTNER 1

Name:		D.O.B:		D/L Number:	
Email:		Home No:		Mobile No:	

PROPRIETOR/PARTNER 2

Name:		D.O.B:		D/L Number:	
Email:		Home No:		Mobile No:	

DETAILS OF DIRECTORS (for Companies only)

DIRECTOR 1

Name:		D.O.B:		D/L Number:	
Email:		Home No:		Mobile No:	

DIRECTOR 2

Name:		D.O.B:		D/L Number:	
Email:		Home No:		Mobile No:	

Have any of the Directors ever been declared bankrupt, entered into arrangements under the Bankruptcy Act or been a director of a company having been wound up or liquidated (voluntarily or otherwise)? Yes No. If yes, please provide details on a separate attachment.

ACCOUNTS PAYABLE CONTACT DETAILS

Accounts Contact Name:	
Email:	
Telephone:	

TRADE REFERENCES

(Please include name, address & contact numbers of current Suppliers of credit. Note: friends and relatives are not acceptable references.)

1.	Company Name:		Telephone:	
	Contact Name:		Email:	
2.	Company Name:		Telephone:	
	Contact Name:		Email:	
3.	Company Name:		Telephone:	
	Contact Name:		Email:	

BANKING

Branch:	
Bank Name:	
Name of person(s) authorising payments:	

TERMS OF TRADING AGREEMENT

THE AGREEMENT

1. The Customer warrants that:
 - a) the information supplied in the Schedule is true, accurate and correct and is supplied for the purpose of obtaining a trade account; and
 - b) the signatories to this application are duly authorised to apply for a trade account and execute this application.
2. The customer agrees to be bound by the terms and conditions of this application and, in doing so, also acknowledges that the Privacy Policy, Shipping Policy, and Refund Policy of the Supplier, available on the official website, are integral parts of this application. By accepting these terms and conditions, the Customer agrees to comply with the respective policies mentioned above.
3. In the event of the Supplier granting credit facilities to us then, the following terms will apply:
 - a) All accounts are to be settled in full within 14 days from the date of invoice by direct bank transfer into Supplier's account.
 - b) The Customer is responsible for the payment of all taxes, duties, and tariffs incurred upon delivery of the goods to the nominated delivery address.
 - c) The Customer is responsible for all bank transfer fees, noting that foreign banks will often charge additional intermediary bank fees.
 - d) If the Customer defaults in the payment of any monies, then all monies due to the Supplier will immediately become due and payable. The Customer must pay that money to the Supplier within seven (7) days from the date of demand. The Supplier is entitled to charge interest on all amounts not paid by the due date for payment. The Customer must pay any interest that is charged. Interest will be calculated on a daily basis from the original due date until the date that the Supplier receives payment, at an interest rate of 2.5% above the overdraft rate, as published by the National Australia Bank for Business Overdraft Commercial Clients.
 - e) The Customer must pay any expenses, costs or disbursements incurred by the Supplier in recovering any outstanding monies from the Customer including debt collection agency fees and solicitor's costs (on a full indemnity basis).
 - f) If the Customer breaches any of the terms and conditions of the credit arrangement, the Supplier is entitled (without notice) to terminate any credit arrangement with the Customer.
 - g) The Supplier is entitled to withhold the supply of credit arrangements for any reason, at the Supplier's discretion.
 - h) The Supplier shall be entitled, for the duration of the credit arrangement, to request security or additional security from us as the Supplier thinks fit. The Supplier is entitled to withhold the supply of credit arrangements until the Customer provides that security or additional security.
 - i) In the event that the Supplier deems it necessary for the Customer to provide additional security, the Customer shall bear all associated costs associated with the mortgage and/or charge in favour of the Supplier, the Customer's real property and/or personal property (and, if the Customer is a company, the personal assets of the directors of the company) as security for the due payment of all monies which may then be, or thereafter become owing by the Customer to the Supplier.
 - j) The Customer agrees that invoices and statements of account from the Supplier shall be conclusively deemed to have been received by the Customer, on the business day immediately following the date of such delivery.
4. If the Supplier considers it relevant to assessing any application, the Customer agrees to the Supplier obtaining from a credit reporting agency, a credit report containing commercial/consumer/personal credit information about us.
5. The Customer acknowledges that in compliance with the law of any Country, State/Province or Territory, the Supplier is authorised to give a credit reporting agency personal information about the Supplier. The information which may be provided may include:
 - a) particulars of the Customer's identity;
 - b) the fact that the Customer has applied for credit and the amount;
 - c) the fact that the Supplier is a current credit provider;
 - d) payments which become overdue, and for which debt recovery action has commenced;
 - e) advice that payments are no longer overdue;
 - f) cheques drawn by us which have been dishonoured more than once;
 - g) depending on the circumstances, that in the Supplier's opinion, the Customer has committed a serious credit infringement.
6. The Customer authorises the Supplier to give to and receive from any credit providers named in a credit report issued by a credit reporting agency, information in your possession or the other credit provider's possession about our credit arrangements, creditworthiness, credit standing, credit history and credit capacity.

The Customer understand that the information may be used to:

 - a) Assess this application for credit;
 - b) Assist the Supplier in avoiding the Customer defaulting on the Customer's credit obligations;
 - c) Notify other credit providers of a default by the Customer; and
 - d) Assess the Customer's creditworthiness.
7. The Customer agrees that the Supplier may give to and seek from any trade references named in the Schedule, information about our credit arrangements. The Customer understands that this information may include any information about the Customer's credit worthiness, credit standing, credit history, or credit capacity that credit providers are permitted to give or receive from each other according to law.
8. Notwithstanding any implication of law to the contrary, any contract between the Customer and the Supplier shall be deemed to be made and construed, and to be enforceable in and according to the laws of the State of Western Australia, and subject to the jurisdiction of the Courts of that State.
9. If any of these terms or conditions is or becomes for any reason wholly or partly invalid, that term or condition, to the extent of the invalidity, shall be severed without prejudice to the continuing force and validity of the remaining conditions.
10. In the case that the Customer is acting as trustee of a trust, the Customer will be personally liable on the account and in addition, the assets of the Trust shall be available to meet payment of the account.
11. Delivery:
 - a) Any date quoted for delivery is an estimate only unless a guarantee shall have been given by the Supplier in writing. The Customer shall accept and pay for goods if and when tendered notwithstanding any failure by the Supplier to deliver by the quoted date. Written advice to the Customer that goods are ready for delivery whether in whole or in part shall constitute tendering and the terms of payment shall apply.
 - b) The Supplier reserves the right to delivery by installments and if delivery is made by installments the Customer shall not be entitled to terminate or cancel the agreement.
 - c) The Customer shall take delivery of the goods within 7 days of notification from the Supplier that the goods are ready for delivery.
 - d) Where the Customer does not accept delivery of goods when the goods are ready for delivery by the Supplier, the Customer shall be liable for additional charges at the Supplier's current rates for storage and/or double the handling or if there is no current rate then at a rate determined by the Supplier in its sole discretion.
 - e) Where delivery is effected by the Supplier and a representative of the Customer does not sign a delivery docket the Customer agrees that the delivery docket as signed by the delivery driver is proof of that delivery, and the Customer shall not dispute that the goods the subject of that delivery were delivered.
 - f) The Customer bears sole responsibility for and the risk of unloading the goods.
 - g) The Supplier shall not be liable to the Customer or any other party for any loss or damage including direct or indirect or consequential injury loss or damage whatsoever by reason of any delay in delivery or non delivery whether the same is due to the negligence of the Supplier or any other party, actions constituting fundamental breach of contract, strike or any other industrial action, or any other cause whatsoever.
12. The risk in the goods (but not the title) the subject of any sale shall pass to the Customer upon delivery by the Supplier to the carrier, whether the Supplier arranges, procures or effects cartage of the goods at the request of the Supplier or otherwise.
13. Title:
 - a) Notwithstanding the delivery of the goods or part thereof the goods remain the sole and absolute property of the Supplier as full legal and equitable owner until such time as the Customer shall have paid the Supplier the full purchase price together with the full price of any other goods the subject of any other contract with the Supplier.
 - b) The Customer acknowledges that it receives possession of and holds goods delivered by the Supplier solely as bailee for the Supplier until such time as the full price thereof is paid to the Supplier together with the full price of any other goods then the subject of any other contract with the Supplier.

- c) Until such time as the Customer becomes the owner of the goods, it will store them on the premises separately, ensure that the goods are kept in a good and serviceable condition, secure the goods from risk, damage and theft and keep the goods fully insured against such risks that are usual and common to insure against in a business of a similar nature to that of the Customer.
 - d) Until the goods are paid for in full, the Supplier authorises the Customer to sell the goods as its fiduciary agent, however, the Customer shall not represent to any third parties that it is acting in any way for the Supplier. The Supplier will not be bound by any contracts to the third parties to which the Customer is a party. Records shall be kept by the Customer of any goods owned by the Supplier. The proceeds of any sales of the goods shall be paid into a separate account and held in trust for the Supplier. The Customer shall account to the Supplier from this fund for the full price of the goods. Where the Customer is entitled to a period of credit, but if prior to the expiration of the period of credit the goods are sold, and the proceeds of the sale received the Customer shall account to the Supplier for the price of the goods. Should the Customer die, stop payment, or call a meeting of its creditors, or become insolvent, or subject to the bankruptcy laws, or being a company, calls a meeting for the purpose of, or to go into liquidation, or has a winding-up petition presented against it, or has a receiver or administrator appointed, the Supplier may at its option notwithstanding its waiver of such default or failure and without prejudice to its other rights under this or documents notwithstanding terms of payment previously specified or may repossess and take over the goods and dispose of the same in its own interest without prejudice to any claim it may have for the damages for any loss resulting from such resale.
 - e) In the event that the Customer uses the goods in some manufacturing or construction process of its own or of some third party, then the Customer shall hold such part of the proceeds of such manufacturing or construction process as relates to the goods in trust for the Supplier. Such part shall be deemed to equal in dollar terms to the amount owing by the Customer to the Supplier at the time of the receipt of such proceeds.
 - f) If the Customer does not pay for any goods on the due date the Supplier is hereby irrevocably authorised by the Customer to enter the Customer's premises (or any premises under the control of the Customer or as agent of the Customer in which the goods are stored at such premises) and use reasonable force to take the possession of the goods without liability for the tort of trespass, negligence or payment of any compensation to the Customer whatsoever. On retaking possession of the goods, the Supplier may elect to refund to the Customer any part payment that may have been made and to credit the Customer's accounts with the value of the goods less any charge for recovery of the goods, or to resell the goods.
14. Claims, Shortages and Defects:
- a) The Customer agrees to check all goods received immediately upon delivery. The Customer will not make any claim after the expiry of 24 hours from the date of delivery of the goods, for shortage or improper or defective or damaged goods and the Supplier will not be liable for such shortages or improper or defective or damaged goods unless a claim is made by the Customer within 24 hours of the delivery of the goods.
 - b) Any claim for shortages or improper or defective goods shall be made by the Customer within 24 hours of the delivery of goods.
 - c) Except to the extent to which conditions and warranties implied by law are not at law able to be executed, all implied conditions and warranties are hereby excluded.
 - d) Insofar as goods supplied by the Supplier is not of a kind ordinarily acquired for personal domestic or household consumption, and unless the Customer establishes that the reliance on this provision would not be fair and reasonable, the liability for the breach of the condition or warranty; implied into this agreement by any applicable law is limited: (i) in the case of goods to any one of the following as determined by the Supplier; the replacement of the goods or the supply or equivalent goods; or the repair of the goods; or the payment of the cost of replacing the goods or of acquiring equivalent goods; or the payment of the costs of having the goods repaired.
 - e) Subject to clause 16(d) herein, the Supplier shall not be liable for any loss or damage whatsoever and howsoever arising whether direct, indirect or consequential or in respect of any claim whenever or however made for any loss or damage, deterioration deficiency or other fault or harm in the goods manufactured, work executed or service provided by or on behalf of or in any arrangements with the Supplier or occasioned to the Customer or any third or other party or to his or their property or interest and whether or not due to the negligence of the Supplier its servants or agents or actions constituting fundamental breach of contract.
15. Default:
- Upon the occurrence of the default by the Customer in compliance with these terms or any other agreement with the Supplier;
- a) The Supplier may at its discretion withhold further supplies of goods or cancel this agreement, or vary the terms of this agreement without prejudice to its rights hereunder PROVIDED HOWEVER that the Supplier may at any time and from time to time upon such terms as it may determine waive any of its rights under this Clause, but without prejudice to its rights thereafter of any of the events hereinbefore referred to or upon the continuation after any such waiver of any state of affairs the subject of such waiver.
 - b) The Customer shall pay the Supplier a finance fee of 2.5% per month on daily balances in respect of any amounts as may from time to time be overdue until paid and such money together with all interest shall be recoverable forthwith from the Customer.
 - c) Without prejudice to any other right or remedy the Customer shall indemnify the Supplier against any costs' fees charges and disbursements charged by any solicitor engaged for the purpose of the collection or recovery of moneys due and payable by the Customer to the Supplier on an indemnity basis and any fees, charges disbursements or commissions charged by any mercantile agency or debt collecting firm.
16. The Customers hereby charges with payment of any indebtedness to the Supplier all beneficial interest (freehold and lease hold) in land and personal property held now or in the future by the Customer. The Customer agrees that if demand is made by the Supplier, the Customer receiving such demand will immediately execute a mortgage or other instrument of security, or consent to a caveat, as required, and against the event that the Customer fails to do so within a reasonable time of being so requested, the Customer hereby irrevocably and by way of security, appoints any credit manager or solicitor engaged by the company to be its true and lawful attorney to execute and register such instruments.

I/The Customer hereby warrant that all the information supplied by us is true and correct. I/The Customer have read the Terms and Conditions associated with the operation of the trade account. I/The Customer also authorise the Supplier to conduct a Credit History check with an external Credit Agency. I/The Customer acknowledges that until such time that I/The Customer is advised in writing by the Supplier that a credit facility has been approved any goods supplied will be on a cash basis only and I/The Customer agree to deposit by electronic bank transfer into the Supplier's nominated bank account any invoiced amounts prior to any of the Supplier's employees working on the Customer's order.

Take Note: It is important that all signatories read and understand this document. It is recommended that the Customer consult with their legal advisor before signing if there is anything the Customer does not understand.

Sole Trader's, Partner's or Director's Signature:		Sole Trader's, Partner's or Director's, or	
Signatory's Name:		Signatory's Name:	
Title:		Title:	
Date:		Date:	

GUARANTEE

(Always required where the applicant is a Company)

IN CONSIDERATION OF THE SUPPLIER agreeing to supply credit to the Customer, at the request of the Supplier (as evidenced by the execution by the Guarantor of this application) the Guarantor:

- (a) Guarantees to the Supplier the due performance and observance by the Customer of all of the Customer's obligations under this Agreement, including the payment of all moneys payable both currently outstanding and incurred in the future by the Customer, and agrees that all outstanding moneys are a debt due and payable by the Guarantors;
- (b) Acknowledges that:
 - (i) no time, credit, forbearance, indulgence or concession which may at any time be granted by the Supplier to the Customer;
 - (ii) no release of or compromise with the Customer or any Guarantor by the Supplier;
 - (iii) no variation of the provisions of this application;
 - (iv) no assignment of this application;
 - (v) no determination of the terms of this application as extended or renewed; will prejudice or affect the liability of the Guarantor hereunder;
- (c) Agrees that this guarantee:
 - (i) is irrevocable and continuing; and
 - (ii) extends to cover all obligations of the Customer to the Supplier howsoever arising;
- (d) As a separate and continuing obligation, HEREBY AGREES to INDEMNIFY and KEEP INDEMNIFIED THE SUPPLIER against all losses, costs, expenses and damages sustained or incurred by the Supplier arising out of or in respect of any breach or default by the Customer in payment of the moneys payable pursuant to this application and or in duly performing and observing any of the provisions of this application on the part of the Customer to be paid, performed and or observed;
- (e) In the event of the Customer committing an Insolvency Event*:
 - (i) the Guarantor shall not prove or claim in any liquidation, bankruptcy, composition, arrangement or assignment or in respect of any appointment until the Supplier has received one hundred cents in the dollar in respect of all moneys owing by the Customer to the Supplier and the Guarantor shall hold in trust for the Supplier such proof and claim;
 - (ii) without prejudice to any other rights of the Supplier, the Guarantor HEREBY AGREES to INDEMNIFY and KEEP INDEMNIFIED the Supplier against all losses, costs, expenses and damages sustained or incurred by the Supplier consequent upon any disclaimer of this application by a liquidator or trustee of the Customer.

* "Insolvency Event" means, in relation to any person, that the person:

- (a) goes into compulsory or voluntary liquidation;
- (b) enters into bankruptcy;
- (c) enters into any composition, arrangement with or assignment for the benefit of the person's creditors or a class of them;
- (d) has appointed under any statute or instrument or by order of any Court, a manager, an administrator, a trustee, a receiver, a receiver and manager or a liquidator in relation to any part of the person's undertakings, assets or property;
- (e) commences to be wound up or ceases to carry on business;
- (f) is unable to pay the person's debts as and when they fall due or is presumed so unable under applicable legislation;
- (g) any execution or similar process is issued against the person's property; or
- (h) anything having a substantially similar effect to any of the events specified above happens under any law of any applicable jurisdiction.

DIRECTORS			
Each Director to sign			
Guarantor's Signature:		Guarantor's Signature:	
Name:		Name:	
Date:		Date:	

Please send a copy of this completed form and any associated supporting paperwork to Accounts@AtlasPearls.com.au.