



**McNAUGHTANS**  
BUS - TRUCK - TRAILER HARDWARE

A.B.N. 49 103 876 437



**Head Office** Ph: 03 8768 6666  
27-29 Micro Circuit Fax: 03 8768 6611  
Dandenong South  
VIC 3175

**PLEASE COMPLETE AND SIGN FORM**

EMAIL SIGNED FORM TO: accounts@mcnaughtans.com.au

AND POST ORIGINAL FORM TO: P.O.BOX 4352, DANDENONG SOUTH, VIC, 3164

## CREDIT APPLICATION FORM

Company name and Trading name:							
Business address:							
Postal address:		State		P/Code			
Shipping address:		State		P/Code			
Phone:						Fax :	
<b>CORPORATE STRUCTURE</b>				A/c's Email:			
<b>ACN / ABN :</b>							
Proprietary Ltd:	Sole Trader	Trading Trust	Public Co	Partnership			
Other (Please specify):							
Names and addresses of Proprietors/Partners/Directors:							
Name:		Address:			Phone:		
Name:		Address:			Phone:		
Name:		Address:			Phone:		
Nature of business:							
Years established:		Years at address:					
Premises: Lease/Freehold:							
Affiliated or parent companies:							
Previous business address last 5 years:							
Bank:		Branch:			Account Name:		
Trade references (top suppliers):							
1.	Name:				Contact:		
	Address				Phone		
					Fax:		
2.	Name:				Contact:		
	Address				Phone:		
					Fax:		
3.	Name:				Contact:		
	Address				Phone		
					Fax:		
Approximate monthly credit required:							
I/We, the proprietors and or authorized officers of the company declare and agree the information to be true in all respects, and acknowledge credit facilities may be withdrawn without prior notice in the event of the customer defaulting in any of the terms and conditions. I/We agree that any dispute so arising in connection with this contract will be adjudicated in the state of Victoria. I/We acknowledge that I/we are liable for all out-of-pocket expenses and all other reasonable expenses including debt collection commission and any other contingent expenses and legal costs on a solicitor/own basis incurred by us for enforcement of obligations and recovery of moneys owing by me/us.							
<b>I/We have read and agree to the Terms and Conditions on this application form. Or as amended</b>							
<b>I am an officer duly authorized to sign on behalf of the applicant.</b>							
Signature: xxx				Company Title:			
Print name:				Date:			
<b>For office use only</b>		Credit limit		Date Opened		Account no.	
		Sales Area		Letter		Sign	

## TERMS AND CONDITIONS

1. The customer warrants that the persons' signatures appearing on the reverse side of this credit application form are duly authorized by the customer to apply for credit and execute this contract.
2. The customer agrees that it is not entitled to any credit until such notification in writing has been received by the customer from the supplier. Until such notice in writing is received by the customer from the supplier all goods supplied to the customer from the supplier shall be on the basis of cash on delivery.
3. Upon credit facilities being granted by the supplier to the customer then the following terms apply:  
The customer shall make payment for all goods purchased by it from the supplier within 30 (thirty) days of the date of month end. Should the customer default in the payment of any monies due under this agreement then all monies due to the supplier shall immediately become due and payable and shall be paid by the customer within seven (7) days of the date of demand and the supplier shall be entitled to charge interest at the rate of 15% per annum.
4. "GOODS" shall mean all goods and chattels, and charges for work and labor done, hire charges, fees, service charges, repairs, materials, insurance charges of whatsoever nature, associated with the supply and manufacture, construction, repair of the goods supplied to the customer and all the terms and conditions of this agreement shall relate to any change herein mentioned imposed by the supplier to the customer.
5. All warranties, whether express or implied and whether statutory or otherwise with regard to the goods supplied by the supplier as to QUALITY, fitness for purpose or any other matter, are hereby excluded, except insofar as any such warranties are incapable of exclusion at law.  
McNaughtans Pty Ltd of 27-29 Micro Cct, Dandenong South, VIC, telephone (03) 8768 6666, warrants that all products described in its current catalogue will under normal use and service be free of failures in material and manufacturers fault for a period of one (1) year (unless this period has been extended as indicated elsewhere) from the date of original purchase by the consumer as dated on the invoice. This warranty does not cover ordinary wear and tear, abuse, alteration of products or damage caused by consumer.  
To make a warranty claim the consumer must deliver the product at their cost to the original place of purchase or to any other place as nominated by either McNaughtans or the place of purchase, in order that a warranty assessment may be performed. The consumer must also enclose the original invoice evidencing date and place of purchase together with an explanation in writing as to the nature of the claim. In the event that the claim is determined to be a failure of the product then McNaughtans reserves the right to repair or replace it at its discretion.
6. Goods will not be accepted for return and credit after (7) seven days from date of purchase unless authorized in writing. Goods which are accepted for return and credit will be subject to a 20% per centum handling fee. All special orders are non-returnable and non-refundable; No Claims will be recognised unless this office is notified within 7 days of receipt of goods.
7. Title in goods WILL NOT PASS TO THE CUSTOMER UNTIL PAYMENT IN FULL (in cash or cleared funds) of the purchase price and all other outstanding amounts due and payable to the supplier is are received by the supplier. Until title passes to the customer, The customer must hold the products goods and the proceeds of sale of the goods as fiduciary trustee, bailor and agent for the supplier, The supplier will be entitled, at any time to require the customer to deliver the goods to the supplier within 48 hours of any demand. For this purpose, the customer grants an unrestricted right and license to enter upon any premises of the customer or any third party where the goods are located and repossess such goods. The supplier will not in any way be liable to the customer or any person, claiming through the customer for any costs, expense, loss or damage resulting from the supplier entering upon such premises and repossessing products goods.
8. The supplier has a retention of title or consignment Security Interest (within the meaning of the Personal Property Securities Act 2009 (Cth) ("PPSA") in all goods and its proceeds (as defined by the PPSA) the supplier delivers to the customer for sale and may have a bailment or lease Security Interest in other property the supplier supplies to the customer. The customer consents to the supplier effecting a registration on the PPSA register in relation to any Security Interest contemplated by these terms (including but not limited to an interest to be perfected as "Purchase Money Security Interest"). The customer agrees to sign all documents and provide all information required to perfect and maintain these Security Interests and the customer agrees to pay or reimburse the supplier for all costs and expenses in relation to registering, maintaining or releasing any Security Interest. The customer must not grant any Security Interest in any item in which the supplier holds such a Security Interest.  
The following provisions of the PPS Act do not apply: section 95 (notice of removal of accession); subsection 121 (4) (enforcement of liquid assets); section 125 (obligation to dispose of or retain collateral); section 130 (notice of disposal); paragraph 132(3)(d) (contents of statement of account); subsection 132(4) (statement of account if no disposal); section 135(notice of retention); section 142(redemption of collateral); and section 143 (reinstatement of security agreement).
9. The Directors/Shareholders of the applicant do hereby jointly and severally guarantee payment of the account and to enter into the standard form of guarantee used by the company should such guarantee be required.
10. The signatories to this agreement do hereby jointly and severally guarantee payment of the customer's account to the supplier. This guarantee will be a continuing guarantee unless notification is made to and acknowledged by the supplier in writing.
11. In the event of a Trust Company we acknowledge that the trustee shall be liable on the account and that in addition the assets of the trust shall be available to meet payment of the account.
12. These terms and conditions shall apply to the exclusion of all other, including any terms and conditions of the customer (whether on the customer's order form or otherwise). The customer acknowledges that these terms and conditions embody the whole agreement between the parties and agree to be bound by them. No variations shall be valid and enforceable unless reduced to writing and signed by the supplier and customer.
13. The customer hereby authorized the supplier to perform credit checks and to obtain credit reports in respect of the customer's credit worthiness in accordance with any law in order to assess this application for credit.
14. The customer agrees to notify the supplier in writing of any change of ownership of the customer within (7) days from the date of such change and shall provide the details of such change to the supplier, failing which the customer shall be liable for any goods supplied by the supplier after such change, alteration or addition unless the supplier shall have acknowledged by writing acceptance of the intending change, alteration or addition.
15. Unless otherwise agreed in writing by us, at our sole selection, the Courts of any State or Territory in Australia will have exclusive jurisdiction in relation to all matters whatsoever concerning these terms and conditions. You irrevocably waive any objection to the venue selected by us in relation to any legal proceedings concerning these terms and conditions. The laws of the State or Territory chosen by us for any such legal proceedings will govern these terms and conditions.

Company Name and ABN..... Signed: .....

Name and Position: ..... Date: ... / ..... / .....



**McNAUGHTANS**

BUS - TRUCK - TRAILER HARDWARE  
ABN 49 103 876 437

Incorporating STRUTS AUSTRALIA

## AGREEMENT TO GUARANTEE AND INDEMNIFY

**WARNING: THIS IS AN IMPORTANT DOCUMENT.  
IF YOU DO NOT UNDERSTAND THIS DOCUMENT YOU SHOULD SEEK INDEPENDENT LEGAL ADVICE.**

**To: McNaughtans Pty. Ltd. ACN 103 876 437 and each of its subsidiaries, divisions, affiliates, associated companies and related entities and any successors and assigns ("McNaughtans").**

1. **We Guarantee** payment to You of all monies (without set-off of any kind) and performance of all obligations including any past, present and future indebtedness or obligation by the Customer or any of Us arising from any past, present or future dealing with You and any GST applicable thereto.
2. **We Indemnify You** against all loss or damage arising from any past, present or future dealing You have or have had with the Customer or any of Us or arising from any breach of any part of this Agreement to Guarantee and Indemnify ("this **Guarantee**") by any of Us.
3. **We Agree:**
  - a) to pay to a stake-holder nominated by You the amount You certify is payable, before being entitled to dispute whether that amount is payable;
  - b) this Guarantee shall be effective despite any conduct or event (including any later agreement to guarantee or indemnify and any other security taken or any Deed of Company Arrangement whether or not You agreed) which may have released or varied any obligation of the Customer or any of Us;
  - c) any payment by the Customer or Us which is subsequently avoided by any law relating to insolvency shall be deemed not to have been paid;
  - d) that We sign both in our personal capacity and as Trustee of every trust of which We are trustee;
  - e) to notify You within 7 days, of any change in the Customer's structure, management or position, including any sale or disposition of any part of the business of the Customer, any change in director, shareholder, management, partnership or trusteeship, any new charge, mortgage or security given to any party by the Customer and any involvement in any franchise or licensed business in any capacity;
  - f) You may make any arrangement or compromise with any of Us, obtain additional guarantees, indemnities or securities from any of Us or any other party or release or compromise with any of Us or any other party and any amount may be extinguished or compromised without affecting our liability to You;
  - g) to not recover (or seek to recover) any money from the Customer until You are fully paid;
  - h) this Guarantee is a continuing guarantee and indemnity and it continues until You have given Us a written release from this guarantee and indemnity; and
  - i) that a release of any security by You does not preclude and will not be a barrier to You seeking or registering any other security (including security that is the same or similar to that released) and for the avoidance of doubt, a withdrawal of a caveat does not preclude or prevent You registering another caveat over the same property.
4. **We hereby:**
  - a) agree despite anything to the contrary contained herein or any other rights which You may have howsoever, where We (jointly or severally) are the owner of land, realty or any other asset capable of being charged and/or over which a security interest may be created ("**Asset**"), We agree, upon Your written request, to mortgage and/or charge all of our joint and/or several interest in the Asset to You to secure all amounts and other monetary obligations payable by the Customer to You;
  - b) agree to execute any documents and to do all things requested by You to register a mortgage (or such other security You require) over any current or later acquired real property any of Us have an interest in;
  - c) consent unconditionally to You lodging a caveat noting Your interest in any current or later acquired real property any of Us have an interest in; and
  - d) agree that You may (without limitation) exercise Your rights under clause 15 to effect compliance with this clause where We fail to do so.
5. **Consideration:** We enter into this Guarantee in consideration of You agreeing to grant credit at Your discretion to the Customer and/or to forbear from taking any legal action against the Customer for one month.
6. **Proper Law:** This Guarantee and any claim or dispute between You, the Customer and/or any of Us shall be governed by the laws of the State of Victoria, Australia and We submit to the jurisdiction of the appropriate Courts in or nearest Melbourne in that State.
7. **Signatures:**
  - a) If more than one of Us is intended to sign, We each agree to be liable for the full amount owed, even if We are the only one to sign.
  - b) Neither You nor the Customer is required to sign this Guarantee. It is a separate obligation of each of Us.
8. **Credit Limit:** Any credit limit You grant or apply to the Customer is at Your discretion and will not limit our liability to You.
9. **Privacy:** We authorise You to:
  - a) obtain credit information about our personal, consumer and commercial credit worthiness from any bank or trade referee disclosed in a Credit Application and from any other credit provider or credit reporting agency for the purpose of assessing the Customer's application for credit, or in connection with this guarantee given by Us;
  - b) use, disclose or exchange with other credit providers and any of Your related entities information about Our credit arrangements in order to assess our credit worthiness, monitor credit worthiness and collect overdue accounts; and

- c) disclose the contents of any credit report on Us to any related entities of Yours, and any of Your solicitors and mercantile agents.
10. **Severability:** Any part of anything herein shall be severable without affecting any other part hereof.
11. **Acknowledgment:** We acknowledge and agree that Our liability under this Guarantee is unlimited.
12. **Definitions:**
- "You" means McNaughtans Pty Ltd ACN 103 876 437;
  - "We" and "Us" means jointly and severally, each of the persons listed as guarantors in Part A of the Schedule to this Guarantee;
  - "Customer" means each of the parties listed in Part C of the Schedule to this Guarantee jointly and severally and any party who acquires and/or conducts any part of the business of the Customer or has any beneficial interest therein until notice is given pursuant to clause 3.e) and also each member of any franchise/licensed network of which the Customer is a member;
  - "Credit Application" means any credit application of Yours that is completed by the Customer.
13. **Demand:** We agree that our liability to You arises without any demand upon the Customer or any of Us.
14. **Stamp Duty:** We agree to pay any stamp duty applicable to this Guarantee or any charge or security created pursuant to clause 4 or otherwise.
15. **Attornment:** To give effect to all obligations arising under this Guarantee, We irrevocably appoint any director of Yours as our attorney.
16. **Other Guarantees:** We will provide details of all guarantees and/or indemnities We have given or subsequently give to any party which You ought reasonably to have knowledge of, in dealing with the Customer in reliance (in part or in full) upon this Guarantee.
17. **Read and Understood:** We have each read and understood this document before signing and accepting it.
18. **Dating:** If any of Us fail to note the date We signed, the date inserted in the Guarantee by You at Part B of the Schedule will be the date of the Guarantee.
19. **Legal Advice:** We certify that We have had the opportunity of taking independent legal advice in relation to the meaning and effect of this Guarantee.
20. **Personal Property Securities Act 2009 ("PPSA"):**
- If You determine that this Guarantee (or a transaction in connection with it) is or contains a security interest for the purposes of the PPSA, We agree to do anything (such as obtaining consents, signing and producing documents, getting documents completed and signed and supplying information) which You ask and consider necessary for the purposes of:
    - ensuring that the security interest is enforceable, perfected and otherwise effective;
    - enabling You to apply for any registration, or give any notification, in connection with the security interest so that the security interest has the priority required by You; and
    - enabling You to exercise Your rights in connection with the security interest.
  - Everything We are required to do under this clause 20 is at our expense. We agree to pay or reimburse Your costs and expenses in connection with anything You do under this clause 20.
  - You need not give any notice under the PPSA (including a notice of a verification statement) unless the notice is required by the PPSA and cannot be excluded.

**EXECUTED AS A DEED POLL BY THE GUARANTORS NAMED IN PART A OF THE SCHEDULE BELOW:  
SCHEDULE TO AGREEMENT TO GUARANTEE AND INDEMNIFY**

**Part A: GUARANTORS:**

1. .... of .....			
(Print name of 1 <sup>st</sup> Guarantor)		(address of 1 <sup>st</sup> Guarantor)	
Signature of 1 <sup>st</sup> Guarantor	.....		
Witness Signature	.....	Witness Address	.....

  

2. .... of .....			
(Print name of 2 <sup>nd</sup> Guarantor)		(address of 2 <sup>nd</sup> Guarantor)	
Signature of 2 <sup>nd</sup> Guarantor	.....		
Witness Signature	.....	Witness Address	.....

**Part B: DATING BY MCNAUGHTANS PTY. LTD:**

<b>DATED by McNaughtans Pty. Ltd.</b> on ...../...../..... by .....
(insert date) <span style="float:right;">(Print name and position)</span>

**Part C: CUSTOMER'S DETAILS:**

<b>Customer:</b> .....	ACN/ABN .....
(Print Name)	(Print ACN/ABN)