

APPLICATION FOR COMMERCIAL CREDIT ACCOUNT (PLEASE COMPLETE IN FULL and Return by Post)

1. PLEASE TICK:

SOLE TRADER
PARTNERSHIP
COMPANY

2. COMPANY NAME: A.C.N. NUMBER:

3. TRADING AS: A.B.N. NUMBER:

4. REGISTERED ADDRESS:

5. TRADING ADDRESS:

6. POSTAL ADDRESS:

7. CONTACT NAME & POSITION:

8. TELEPHONE NUMBER: FAX NUMBER:

9. NATURE OF BUSINESS: DATE ESTABLISHED:

10. BANK: BRANCH:

B.S.B. NUMBER: ACCOUNT NUMBER:

11. REQUIRED CREDIT LIMIT:

12. FULL NAMES AND PRIVATE ADDRESSES OF DIRECTORS OR PROPRIETORS:

NAME	ADDRESS	TELEPHONE NUMBER
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1.

2.

3.

13. TRADE REFERENCES (Three Required):

BUSINESS NAME	CONTACT	FAX No.	TELEPHONE No.
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1.

2.

3.

I hereby agree to abide by the terms and conditions of sale of Sigrist Design Pty, Ltd. In submitting this application, I / We agree to the trading terms of Sigrist Design Pty Ltd and undertake to pay all outstanding accounts within 30 days from the date of first statement. I / We understand that if I do not trade within these terms I / We may face immediate "stop supply" on further deliveries until the account is brought up to date. I / We also understand that interest may be charged on overdue accounts.

SIGNED TITLE

NAME (Print) DATE

TERMS AND CONDITIONS OF SALE
FOR
Sigrist Design Pty Ltd

The following Terms and Conditions of Sale shall apply to the extent that nothing to the contrary has been arranged by any other agreement in writing.

Clause 1. GENERAL

- 1.1 The **Customer** means the party as defined on the Application for Commercial Credit Account.
- 1.2 The **Supplier** means Sigrist Design Pty Ltd, its successors or assigns.
- 1.3 These terms and conditions apply to every sale made or agreed to be made by the Supplier to the Customer and no variation or waiver of them will be effective unless the variation or waiver is evidenced in writing signed on behalf of the Supplier.
- 1.4 These conditions may be varied by the Supplier at any time in writing to the Customer.

Clause 2. QUOTATION AND DELIVERY

- 2.1 In the absence of agreement to the contrary all orders shall be booked at the prices applying on the date of delivery and stated in the order confirmation and subject to the reservation in terms of price as well as delivery that we shall not be liable for strikes, lockouts, etc., which are beyond our control, (refer to Clause 10 hereof).
- 2.2 Unless otherwise stated, all prices quoted by the Supplier are exclusive of any sales tax or good and services tax.
- 2.3 It is the responsibility of the Customer to arrange and pay for the delivery of goods. However, at the Customers request, the Supplier may arrange for delivery of the goods at the Customers expense.
- 2.4 Risk of loss or damage to the goods shall pass to the Customer at the time of dispatch from the Suppliers premises.
- 2.5 Except as otherwise agreed in writing, the dates of delivery of the goods are calculated according to our best estimate but can be subject to change. If the Supplier is unable to deliver the goods to the Customer on the agreed date then the Customer will be notified.
- 2.6 To the full extent permitted by law, the Supplier will be under no liability to the Customer for loss of any kind whatsoever (including without limitation loss of profits and consequential loss) arising out of the supply or failure to supply goods and any defect in the quality of the goods.

Clause 3. PRODUCT INFORMATION

- 3.1 All and any information stated in the catalogue, brochures, price lists, technical reports, etc., in respect of weight, dimensions, capacity, performance, and other technical data shall be for guidance only, and binding only to the extent that a specific agreement refers to them.

Clause 4. ORDERS

- 4.1 All orders by the Customer are to be in writing and signed by an authorised person.
- 4.2 An agreement for the sale of goods arises when an order for the goods is placed by the Customer and that order is accepted by the Supplier in writing, or that order is otherwise satisfied or performed in whole or in part by the Supplier.
- 4.3 The Customer may withdraw or cancel any order placed prior to acceptance by the Supplier pursuant to clause 4.2
- 4.4 If an order has been accepted by the Supplier in accordance with clause 4.2 that order may not be cancelled except with the Suppliers consent in writing
- 4.5 Where the Supplier accepts the cancellation of the Customers order pursuant to clause 5.2 the Supplier reserves the right to charge the Customer an amount equivalent to 20% of the invoiced price of the goods by way of liquidated damages which must be paid by the Customer on demand.

Clause 5. RETURNED GOODS

- 5.1 Without limiting clause 6 or clause 7, the Supplier will not be under any obligation to accept goods returned by the Customer and will do so only on terms to be agreed in writing in each individual case.
- 5.2 Where the Supplier accepts returned goods it reserves the right to charge the Customer an amount equivalent to 20% of the invoiced price of the goods by way of liquidated damages, which must be paid by the Customer on demand.

Clause 6. PAYMENT

- 6.1 Payment for goods purchased from the Supplier is to be made no later than 30 days from the last day of the month of purchase.
- 6.2 If a cheque (bank or otherwise) or other negotiable instrument is tendered as payment, payment shall be deemed to made on the date on which such cheque or negotiable instrument is negotiated and cleared by the Suppliers bankers.

Clause 7. DEFAULT

- 7.1 If the Customer defaults in making payment to the Supplier in accordance with these conditions or, (being a corporation) has a receiver, receiver and manager, administrator, liquidator (provisional or otherwise), or controller appointed, or, (being a natural person), commits an act of bankruptcy, dies or becomes of unsound mind or permanently disabled:-
- 7.1.1 The whole sum then owing by the Customer to the Supplier for all goods purchased from the Supplier, shall immediately become due and payable and the Customer shall not be entitled to purchase goods on credit from the Supplier unless agreed in writing; and
 - 7.1.2 The Supplier may in its absolute discretion debit the Customers account with interest calculated on the portion of the customers account overdue from time to time at the rate of 2% per month from the date on which such default arose.
 - 7.1.3 The Supplier may in its absolute discretion debit the Customers account with all collection fees in commissions, administrative costs, out-of-pocket expenses and legal costs incurred by the Supplier as a direct or indirect consequence of such default.
- 7.2 Upon retaking possession of the goods. The Supplier shall within a reasonable time, inspect the goods and credit the Customers account with such sum as the Supplier in its absolute discretion considers to be the fair and reasonable value of the goods, after making due allowance for the price at which those goods were sold to the Customer, the condition of the goods at the time of repossession and the costs incurred by the supplier in connection with the repossession, sorting and examination of the goods.

Clause 8. RETENTION OF TITLE

- 8.1 Ownership and legal title in the goods will not pass to the Customer and will remain with the Supplier until payment is made in full of the purchase price of the goods;
- 8.2 Until legal title passes to the Customer, the Customer will hold the goods as trustee for the Supplier;
- 8.3 Irrespective of whether legal title has transferred to the Customer, risk in or associated with the goods shall pass to and remain with the Customer upon delivery of the goods to the Customer;
- 8.4 The Customer is authorised to sell the goods in the ordinary course of business unless:-
- 8.4.1 It is otherwise notified in writing by the Supplier
 - 8.4.2 Any (being a corporation) receiver, receiver and manager, administrator, liquidator (provisional or otherwise), or controller is appointed in respect of the Customer or of its assets, or, (being a natural person), commits an act of bankruptcy, dies or becomes of unsound mind or permanently disabled, or if any mortgagee shall enter into possession of the assets of the Customer which include the goods or any premises where the goods will at that time be, in which case sale of the goods in the ordinary course of business must cease immediately.
- 8.5 The goods shall be stored separately and in a manner to enable them to be identified and cross referenced to particular invoices
- 8.6 The proceeds of any goods sold shall be kept in a separate account and should not be mixed with any other moneys, including funds of the buyer.
- 8.7 After giving forty eight (48) hours notice to the Customer, the Supplier is entitled to enter upon the Customers premises between 8.00am and 5.00pm to inspect the goods.
- 8.8 If payment is not made by the Customer to the Supplier within seven (7) days of the due date then the Customer must deliver the goods to the supplier upon demand. In the event that the Customer does not comply with the demand within forty eight (48) hours of receipt, the Supplier will be entitled to enter upon the Customers premises, or any other place where the goods may be, without liability for trespass or any resulting damage, at any time to do all things necessary to take possession of the goods. The customer will be liable for all costs associated with the exercise of the Suppliers rights under this clause, which must be payable on demand.
- 8.9 Each sub-clause of this clause 8 will be an independent and separate provision from each other sub-clause so that if any one or more sub-clause is found to be invalid, void or ineffective for any reason, the remaining sub-clause(s) will not be affected and will remain in full force and effect.

Clause 9. WARRANTIES

- 9.1 The Supplier warrants products of its manufacture when not misused or neglected to be free of defects in workmanship and/or materials. Our obligation under this warranty is limited to repairing or exchanging F.O.B. the Suppliers premises, any part, assembly or portion thereof found to be defective within 12 months from the date of sale.
- 9.2 This warranty applies only for the benefit of the Customer
- 9.3 This warranty only applies where:
- 9.3.1 Defects have arisen solely from faulty materials or workmanship,
 - 9.3.2 The goods have not been subject to accident, alteration, abuse, misuse or wear through normal use,
 - 9.3.3 The goods are installed and operated in accordance with the Suppliers instructions and recommendations.
- 9.4 The Supplier assumes no responsibility for the labour costs involved in the removal of defective parts, installation of new parts or service charges related thereto.
- 9.5 The Supplier shall have the option of requiring goods to be returned at the Customers cost to establish the claim. Goods found to be damaged or tampered with will result in the warranty being void and of no effect.
- 9.6 Warranty does not apply to smoke spill fans used in the smoke spill mode.

Clause 10. FORCE MAJEURE CLAUSE

10. In the event of war, invasion, act of foreign enemy hostilities (whether war has been declared or not), civil war, rebellion, revolution, insurrection or military or usurped power the Supplier shall be relieved of liabilities incurred under this contract wherever and to the extent to which the fulfillment of such obligations is prevented, frustrated or impeded as a consequence of any such event or by any statute, rules, order or requisitions issued by any government department, council or other duly constituted authority or from strikes, lockouts, breakdown of plant or any other clauses (whether or not of a like nature) beyond the Suppliers control.

Clause 11. ASSIGNMENT

11. The customer cannot assign or transfer any of its rights or obligations under or in connection with goods sold to it by the Supplier.

Clause12. PRIVACY ACT AUTHORITY

12. For the purposes of assessing the credit worthiness of the Customer from time to time and the collection of payments, the Customer hereby irrevocably authorises the Supplier, its servants and agents to make such enquiries as they deem necessary including but not limited to, making enquiries with and obtaining reports (as may be allowed by law) from persons nominated by the Customer as trade referees, the Customer's creditors, bankers and financiers, credit providers, mortgage and trade insurers and credit reporting agencies (hereinafter called "the information sources") and the Customer agrees and consents to the information sources providing to the Supplier such information as is requested by the Supplier and permitted to be given by law for these purposes. The Customer also consents to the Supplier disclosing the contents of any credit report or personal information to a credit reporting agency or commercial credit reporting agency for the purpose of that credit reporting agency creating or adding any credit information filed in relation to the Customer or any person or business.

Clause13. SETTLEMENT OF DISPUTES

13. Any disputes arising out of or in connection with these terms and conditions and any provisions annexed thereto shall be settled in accordance with the laws of the State of Queensland, Australia.

Please sign below acknowledgment that you have read and understand the above Terms.

Executed for and or behalf of business/company by its Principal Director.

SIGNED.....TITLE.....

NAME (Print).....DATE.....

Personal/Directors Guarantee and Indemnity

IN CONSIDERATION of Sigrist Design Pty Ltd and its successors and assigns ("the Agent")
at the request of the Guarantor (as is now acknowledged) supplying and continuing to supply goods and/or services to

_____ ("the Client")

I/WE UNCONDITIONALLY AND IRREVOCABLY:

1. **GUARANTEE** the due and punctual payment to the Agent of all moneys which are now owing to the Agent by the Client and all further sums of money from time to time owing to the Agent by the Client in respect of goods and services supplied or to be supplied by the Agent to the Client or any other liability of the Client to the Agent, and the due observance and performance by the Client of all its obligations contained or implied in any contract with the Agent. If for any reason the Client does not pay any amount owing to the Agent the Guarantor will immediately on demand pay the relevant amount to the Agent.
2. **HOLD HARMLESS AND INDEMNIFY** the Agent on demand as a separate obligation against any liability (including but not limited to damages costs losses and legal fees (as defined hereunder in paragraph b hereof)) incurred by or assessed against the Agent in connection with:
 - (a) the supply of goods and/or services to the Client; or
 - (b) the recovery of moneys owing to the Agent by the Client including the enforcement of this Guarantee and Indemnity, and including but not limited to the Agent's nominees costs of collection and legal costs calculated on a solicitor and own client basis; or
 - (c) moneys paid by the Agent with the Client's consent in settlement of a dispute that arises or results from a dispute between, the Agent, the Client, and a third party or any combination thereof, over the supply of goods and/or services by the Agent to the Client.

I/WE FURTHER ACKNOWLEDGE AND AGREE THAT

3. This Guarantee and Indemnity shall constitute an unconditional and continuing Guarantee and Indemnity and accordingly shall be irrevocable and remain in full force and effect until the whole of moneys owing to the Agent by the Client and all obligations herein have been fully paid satisfied and performed.
4. No granting of credit, extension of further credit, or granting of time and no waiver, indulgence or neglect to sue on the Agent's part (whether in respect of the Client or any one or more of any other Guarantor(s) or otherwise) and no failure by any named Guarantor to properly execute this Guarantee and Indemnity shall impair or limit the liability under this Guarantee and Indemnity of any Guarantor. Without affecting the Client's obligations to the Agent, each Guarantor shall be a principal debtor and liable to the Agent accordingly.
5. If any payment received or recovered by the Agent is avoided by law such payment shall be deemed not to have discharged the liability of the Guarantor, and the Guarantor and the Agent shall each be restored to the position in which they would have been had no such payment been made.
6. This Guarantee and Indemnity shall bind each of the signatories notwithstanding that one or more of the persons named as a "Guarantor" may never execute this Guarantee and Indemnity.
7. The term "Guarantor" whenever used in this Guarantee and Indemnity shall, if there is more than one person named as Guarantor, mean and refer to each of them individually and both of them together unless the context otherwise requires, and the obligations and agreements on the part of the Guarantor contained in this Guarantee and Indemnity shall bind them jointly and severally.
8. **I/We have been advised to obtain independent legal advice before executing this Guarantee and Indemnity. I/we understand that I/we am/are liable for all amounts owing (both now and in the future) by the Client to the Agent.**
9. The above information is to be used by the Agent for all purposes in connection with the Agent considering this Guarantee and Indemnity and the subsequent enforcement of the same.
10. I/we irrevocably authorise the Agent to obtain from any person or company any information which the Agent may require for credit reference purposes. I/We further irrevocably authorise the Agent to provide to any third party, in response to credit references and enquiries about me/us or by way of information exchange with credit reference agencies, details of this Guarantee and Indemnity and any subsequent dealings that I/we may have with the Agent as a result of this Guarantee and Indemnity being actioned by the Agent.

GUARANTOR-1

SIGNED: _____ DRIVERS LICENSE: _____

FULL NAME: _____

PRESENT ADDRESS: _____

SIGNATURE OF WITNESS: _____

NAME OF WITNESS: _____ OCCUPATION: _____

PRESENT ADDRESS: _____

EXECUTED as a Deed this _____ day of _____ 20____

GUARANTOR-2

SIGNED: _____ DRIVERS LICENSE: _____

FULL NAME: _____

PRESENT ADDRESS: _____

SIGNATURE OF WITNESS: _____

NAME OF WITNESS: _____ OCCUPATION: _____

PRESENT ADDRESS: _____

EXECUTED as a Deed this _____ day of _____ 20____

Note: 1. If the Client is a sole trader or partnership the Guarantor(s) should be some other suitable person(s).
2. If the Client is a club or incorporated society the Guarantor(s) should be the president and secretary or other committee member.

**WARNING: THIS IS AN IMPORTANT DOCUMENT
YOU SHOULD SEE YOUR OWN LAWYER OR ADVISOR BEFORE SIGNING IT**