

## CREDIT ACCOUNT APPLICATION

**To Be Completed By Applicants** - Please complete all sections and read the Terms and Conditions of Trade overleaf or attached.

<b>Type of Business:</b> Sole Trader <input type="checkbox"/> Trust <input type="checkbox"/> Partnership <input type="checkbox"/> Company <input type="checkbox"/>					
Company Name:			ABN No:		
Trading Name:			ACN No:		
Physical Address:			State:	Postcode:	
Billing Address:			State:	Postcode:	
Email Address:			Phone No:		
Alternative Email Address:			Fax No:		
<b>Directors / Owners / Trustee</b> (if more than two, please attach a separate sheet)					
Full Name:			D.O.B.		
Private Address:			State:	Postcode:	
Driver's Licence No:	Phone No:		Mobile No:		
Full Name:			D.O.B.		
Private Address:			State:	Postcode:	
Driver's Licence No:	Phone No:		Mobile No:		
Date Business / Company Established: (Current Owners)			Credit Limit Required: \$		
Nature of Business:		Paid Up Capital:	Estimated Monthly Purchases: \$		
Principal Place of Business is: <input type="checkbox"/> Rented <input type="checkbox"/> Owned <input type="checkbox"/> Mortgaged (to whom)					
<b>Purchase Order Required:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO		<b>Accounts to be emailed?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO			
Accounts Email Address:					
Accounts Contact:		Phone No:	Mobile No:		
Bank and Branch:			Account No:		
Account Terms: 30 Days EOM <input type="checkbox"/> COD <input type="checkbox"/> Other:					
Trade References: (Please provide companies that are willing to do trade references)					
Name	Address		Phone / Fax / Email:		
1.					
2.					
3.					

I certify that the above information is true and correct and that I am authorised to make this application for credit. I have read and understand the TERMS AND CONDITIONS OF TRADE (overleaf or attached) of DMK Forest Products Pty Ltd which form part of, and are intended to be read in conjunction with this Credit Account Application and agree to be bound by these conditions. I authorise the use of my personal information as detailed in the Privacy Act clause therein. **I agree that if I am a director/shareholder (owning at least 15% of the shares) of the Customer I shall be personally liable for the performance of the Customer's obligations under this contract.**

**SIGNED (CUSTOMER):** \_\_\_\_\_ **SIGNED (DMK):** \_\_\_\_\_

Name: \_\_\_\_\_ Name: \_\_\_\_\_

Position: \_\_\_\_\_ Position: \_\_\_\_\_

**WITNESS TO CUSTOMER'S SIGNATURE:**

**Signed:** \_\_\_\_\_ Name: \_\_\_\_\_ Date: \_\_\_\_\_

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OFFICE USE ONLY					
ACC / Ref No	CREDIT LIMIT	APPROVED BY	DATA INPUTTED	DATE	SALES REP
	\$			/ /	

# DMK Forest Products Pty Ltd – Terms & Conditions of Trade

<p><b>1. Definitions</b>                  1.1 "DMK" means DMK Forest Products Pty Ltd, its successors and assigns or any person acting on behalf of and with the authority of DMK Forest Products Pty Ltd.                  1.2 "Client" means the person/s buying the Goods as specified in any invoice, document or order, and if there is more than one Client it is a reference to each Client jointly and severally.                  1.3 "Goods" means all Goods or Services supplied by DMK to the Client at the Client's request from time to time (where the context so permits the terms "Goods" or "Services" shall be interchangeable for the other).                  1.4 "Price" means the Price payable for the Goods as agreed between DMK and the Client in accordance with clause 5 below.</p> <p><b>2. Acceptance</b>                  2.1 The Client is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Client places an order for or accepts delivery of the Goods.                  2.2 These terms and conditions may only be amended with DMK's consent in writing and shall prevail to the extent of any inconsistency with any other document or agreement between the Client and DMK.</p> <p><b>3. Electronic Transactions (Queensland) Act 2001</b>                  3.1 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 14 of the Electronic Transactions (Queensland) Act 2001 or any other applicable provisions of that Act or any Regulations referred to in that Act.</p> <p><b>4. Change in Control</b>                  4.1 The Client shall give DMK not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client and/or any other change in the Client's details (including but not limited to changes in the Client's name, address, contact phone or fax number/s, or business practice). The Client shall be liable for any loss incurred by DMK as a result of the Client's failure to comply with this clause.</p> <p><b>5. Price and Payment</b>                  5.1 At DMK's sole discretion the Price shall be either:                  (a) as indicated on any invoice provided by DMK to the Client; or                  (b) the Price as at the date of delivery of the Goods according to DMK's current price list; or                  (c) DMK's quoted price (subject to clause 5.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.                  5.2 DMK reserves the right to change the Price if a variation to DMK's quotation is requested. Any variation from the Goods to be supplied, required specifications or as a result of any increase to DMK in the cost of materials (including, but not limited to, overseas transactions that may increase as a consequence of variations in foreign currency rates of exchange and/or international freight and insurance charges) will be charged for on the basis of DMK's quotation and will be shown as variations on the invoice.                  5.3 At DMK's sole discretion a non-refundable deposit may be required.                  5.4 Time for payment for the Goods being of the essence, the Price will be payable by the Client on the date/s determined by DMK, which may be:                  (a) on delivery of the Goods;                  (b) before delivery of the Goods;                  (c) thirty (30) days following the end of the month in which a statement is posted to the Client's address or address for notices;                  (d) failing any notice to the contrary, the date specified on any invoice or other form as being the date of payment.                  5.5 Payment may be made by cash, cheque, electronic/on-line banking, credit card (plus a surcharge of up to two and a half percent (2.5%) of the Price applicable to Amex cards), or by any other method as agreed to between the Client and DMK.                  5.6 In conjunction with clause 15, where the Client makes payment by credit card eight (8) days after the due date (including Amex), a surcharge of up to three percent (3%) of the Price shall apply.                  5.7 Unless otherwise stated the Price does not include GST. In addition to the Price the Client must pay to DMK an amount equal to any GST DMK must pay for any supply by DMK under this or any other agreement for the sale of the Goods. The Client must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Client pays the Price. In addition the Client must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.</p> <p><b>6. Delivery of Goods</b>                  6.1 Delivery ("Delivery") of the Goods is taken to occur at the time that:                  (a) the Client or the Client's nominated carrier takes possession of the Goods at DMK's address; or                  (b) DMK (or DMK's nominated carrier) delivers the Goods to the Client's nominated address even if the Client is not present at the address.                  6.2 At DMK's sole discretion the cost of delivery is in addition to the Price.                  6.3 The Client must take delivery by receipt or collection of the Goods whenever they are tendered for delivery. In the event that the Client is unable to take delivery of the Goods as arranged then DMK shall be entitled to charge a reasonable fee for redelivery and/or storage.                  6.4 Any time or date given by DMK to the Client is an estimate only. The Client must still accept delivery of the Goods even if late and DMK will not be liable for any loss or damage incurred by the Client as a result of the delivery being late.</p> <p><b>7. Risk</b>                  7.1 Risk of damage to or loss of the Goods passes to the Client on Delivery and the Client must insure the Goods on or before Delivery.                  7.2 If any of the Goods are damaged or destroyed following delivery prior to ownership passing to the Client, DMK is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by DMK is sufficient evidence of DMK's rights to receive the insurance proceeds without the need for any person dealing with DMK to make further enquiries.                  7.3 If the Client requests DMK to leave Goods outside DMK's premises for collection or to deliver the Goods to an unattended location then such Goods shall be left at the Client's sole risk.                  7.4 Timber is a natural product and as such may exhibit variations in texture, shade, colour, surface, finish, markings, veining, and contain natural fissures, occlusions, and indentations. Whilst DMK will make every effort to match sales samples to the finished Goods DMK accepts no liability whatsoever where such samples differ to the finished Goods supplied.                  7.5 Timber is a hygroscopic material subject to expansion and contraction, therefore DMK will accept no responsibility for gaps that may appear in installations during prolonged dry periods.                  7.6 The Client acknowledges that Goods supplied may:                  (a) fade or change colour over time; and                  (b) expand, contract or distort as a result of exposure to heat, cold, weather; and</p>	<p>(c) mark or stain if exposed to certain substances; and                  (d) be damaged or disfigured by impact or scratching.</p> <p><b>8. Specifications</b>                  8.1 The Customer acknowledges that all descriptive specifications, illustrations, drawings, data, dimensions and weights stated in DMK's or manufacturer's fact sheets, price lists or advertising material, are approximate only and are given by way of identification only. The Customer shall not be entitled to rely on such information, and any use of such does not constitute a sale by description, and does not form part of the contract, unless expressly stated as such in writing by DMK.                  8.2 The Customer shall be responsible for ensuring that the Goods ordered are suitable for their intended use.</p> <p><b>Client's Disclaimer</b>                  The Client hereby disclaims any right to rescind, or cancel the contract or to sue for damages or to claim restitution arising out of any inadvertent misrepresentation made to the Client by DMK and the Client acknowledges that the Goods are bought relying solely upon the Client's skill and judgment.                  Where DMK provides advice to the Client, such advice is given in good faith only. The Client acknowledges that DMK shall not be liable for any claims however arising out of any advice given.</p> <p><b>Title</b>                  DMK and the Client agree that ownership of the Goods shall not pass until:                  (a) the Client has paid DMK all amounts owing to DMK; and                  (b) the Client has met all of its other obligations to DMK.                  Receipt by DMK of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised.                  It is further agreed that:                  (a) until ownership of the Goods passes to the Client in accordance with clause 10.1, that the Client is only a bailee of the Goods and must return the Goods to DMK on request;                  (b) the Client holds the benefit of the Client's insurance of the Goods on trust for DMK and must pay to DMK the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed;                  (c) the Client must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Client sells, disposes or parts with possession of the Goods then the Client must hold the proceeds of any such act on trust for DMK and must pay or deliver the proceeds to DMK on demand;                  (d) the Client should not convert or process the Goods or intermix them with other goods but if the Client does so then the Client holds the resulting product on trust for the benefit of DMK and must sell, dispose of or return the resulting product to DMK as it so directs;                  (e) the Client irrevocably authorises DMK to enter any premises where DMK believes the Goods are kept and recover possession of the Goods;                  (f) DMK may recover possession of any Goods in transit whether or not delivery has occurred;                  (g) the Client shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they remain the property of DMK;                  (h) DMK may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Client.</p> <p><b>Personal Property Securities Act 2009 ("PPSA")</b>                  In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.                  Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Goods and/or collateral (account) – being a monetary obligation of the Client to DMK for Services – that have previously been supplied and that will be supplied in the future by DMK to the Client.                  The Client undertakes to:                  (a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which DMK may reasonably require to;                  (i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;                  (ii) register any other document required to be registered by the PPSA; or                  (iii) correct a defect in a statement referred to in clause 11.3(a)(i) or 11.3(a)(ii);                  (b) indemnify, and upon demand reimburse, DMK for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Goods charged thereby;                  (c) not register a financing change statement in respect of a security interest without the prior written consent of DMK;                  (d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods and/or collateral (account) in favour of a third party without the prior written consent of DMK;                  (e) immediately advise DMK of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.</p> <p>DMK and the Client agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.                  The Client waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA. The Client waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.                  Unless otherwise agreed to in writing by DMK, the Client waives their right to receive a verification statement in accordance with section 157 of the PPSA.                  The Client must unconditionally ratify any actions taken by DMK under clauses 11.3 to 11.5.                  Subject to any express provisions to the contrary nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.</p> <p><b>Security and Charge</b>                  In consideration of DMK agreeing to supply the Goods, the Client charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Client either now or in the future, to secure the performance by the Client of its obligations under these terms and conditions (including, but not limited to, the payment of any money).                  The Client indemnifies DMK from and against all DMK's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising DMK's rights under this clause.                  The Client irrevocably appoints DMK and each director of DMK as the Client's true and lawful attorney/s to perform all necessary</p>	<p>acts to give effect to the provisions of this clause 12, including, but not limited to, signing any document on the Client's behalf.</p> <p><b>13. Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA)</b>                  The Client must inspect the Goods on delivery and must within seven (7) days of delivery notify DMK in writing of any evident defect/damage, shortage in quantity, or failure to comply with the description or quote. The Client must notify any other alleged defect in the Goods as soon as reasonably possible after any such defect becomes evident. Upon such notification the Client must allow DMK to inspect the Goods.                  Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied warranties and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions (<b>Non-Excluded Guarantees</b>).                  DMK acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees. Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, DMK makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Goods. DMK's liability in respect of these warranties is limited to the fullest extent permitted by law.                  If the Client is a consumer within the meaning of the CCA, DMK's liability is limited to the extent permitted by section 64A of Schedule 2.                  If DMK is required to replace the Goods under this clause or the CCA, but is unable to do so, DMK may refund any money the Client has paid for the Goods.                  If the Client is not a consumer within the meaning of the CCA, DMK's liability for any defect or damage in the Goods is:                  (a) limited to the value of any express warranty or warranty card provided to the Client by DMK at DMK's sole discretion;                  (b) limited to any warranty to which DMK is entitled, if DMK did not manufacture the Goods;                  (c) otherwise negated absolutely.                  Subject to this clause 13, returns will only be accepted provided that:                  (a) the Client has complied with the provisions of clause 13.1; and                  (b) DMK has agreed that the Goods are defective; and                  (c) the Goods are returned within a reasonable time at the Client's cost (if that cost is not significant); and                  (d) the Goods are returned in as close a condition to that in which they were delivered as is possible.                  Notwithstanding clauses 13.1 to 13.8 but subject to the CCA, DMK shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:                  (a) the Client failing to properly maintain or store any Goods;                  (b) the Client using the Goods for any purpose other than that for which they were designed;                  (c) the Client continuing the use of any Goods after any defect became apparent or should have become apparent to a reasonably prudent operator or user;                  (d) the Client failing to follow any instructions or guidelines provided by DMK;                  (e) fair wear and tear, any accident, or act of God.                  DMK may in its absolute discretion accept non-defective Goods for return in which case DMK may require the Client to pay handling fees of up to thirty percent (30%) of the value of the returned Goods plus any freight costs. Some Goods including certain special order items, are not returnable.</p> <p><b>14. Intellectual Property</b>                  Where DMK has designed, drawn or developed Goods for the Client, then the copyright in any designs and drawings and documents shall remain the property of DMK.                  The Client warrants that all designs, specifications or instructions given to DMK will not cause DMK to infringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify DMK against any action taken by a third party against DMK in respect of any such infringement.                  The Client agrees that DMK may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings or Goods which DMK has created for the Client.</p> <p><b>15. Default and Consequences of Default</b>                  Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at DMK's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.                  If the Client owes DMK any money the Client shall indemnify DMK from and against all costs and disbursements incurred by DMK in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, DMK's contract default fee, and bank dishonour fees).                  Further to any other rights or remedies DMK may have under this contract, if a Client has made payment to DMK, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by DMK under this clause 15 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Client's obligations under this agreement.                  Without prejudice to any other remedies DMK may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions DMK may suspend or terminate the supply of Goods to the Client. DMK will not be liable to the Client for any loss or damage the Client suffers because DMK has exercised its rights under this clause.                  Without prejudice to DMK's other remedies at law DMK shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to DMK shall, whether or not due for payment, become immediately payable if:                  (a) any money payable to DMK becomes overdue; or                  (b) the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or                  (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.</p> <p><b>16. Cancellation</b>                  DMK may cancel any contract to which these terms and conditions apply or cancel delivery of Goods at any time before the Goods are delivered by giving written notice to the Client. On giving such notice DMK shall repay to the Client any money paid by the Client for the Goods. DMK shall not be liable for any loss or damage whatsoever arising from such cancellation.                  In the event that the Client cancels delivery of Goods the Client shall be liable for any and all loss incurred (whether direct or indirect) by DMK as a direct result of the cancellation (including, but not limited to, any loss of profits).                  Cancellation of orders for Goods made to the Client's specifications, or for non-stockist items, will definitely not be accepted once production has commenced, or an order has been placed.</p>	<p><b>17. Privacy Act 1988</b>                  The Client agrees for DMK to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, previous credit applications, credit history) about the Client in relation to credit provided by DMK.                  The Client agrees that DMK may exchange information about the Client with those credit providers and with related body corporates for the following purposes:                  (a) to assess an application by the Client; and/or                  (b) to notify other credit providers of a default by the Client; and/or                  (c) to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or                  (d) to assess the creditworthiness of the Client including the Client's repayment history in the preceding two years.                  The Client consents to DMK being given a consumer credit report to collect overdue payment on commercial credit.                  The Client agrees that personal credit information provided may be used and retained by DMK for the following purposes (and for other agreed purposes or required by):                  (a) the provision of Goods; and/or                  (b) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Goods; and/or                  (c) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or                  (d) enabling the collection of amounts outstanding in relation to the Goods.                  DMK may give information about the Client to a CRB for the following purposes:                  (a) to obtain a consumer credit report;                  (b) allow the CRB to create or maintain a credit information file about the Client including credit history.                  The information given to the CRB may include:                  (a) personal information as outlined in 17.1 above;                  (b) name of the credit provider and that DMK is a current credit provider to the Client;                  (c) whether the credit provider is a licensee;                  (d) type of consumer credit;                  (e) details concerning the Client's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);                  (f) advice of consumer credit defaults, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced or alternatively that the Client no longer has any overdue accounts and DMK has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);                  (g) information that, in the opinion of DMK, the Client has committed a serious credit infringement;                  (h) advice that the amount of the Client's overdue payment is equal to or more than one hundred and fifty dollars (\$150).                  The Client shall have the right to request (by e-mail) from DMK:                  (a) a copy of the information about the Client retained by DMK and the right to request that DMK correct any incorrect information; and                  (b) that DMK does not disclose any personal information about the Client for the purpose of direct marketing.                  DMK will destroy personal information upon the Client's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this agreement or is required to be maintained and/or stored in accordance with the law.                  The Client can make a privacy complaint by contacting DMK via e-mail. DMK will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Client is not satisfied with the resolution provided, the Client can make a complaint to the Information Commissioner at <a href="http://www.oaic.gov.au">www.oaic.gov.au</a>.</p> <p><b>18. Other Applicable Legislation</b>                  At DMK's sole discretion, if there are any disputes or claims for unpaid Goods and/or Services then the provisions of the Building and Construction Industry Security of Payment Act 2002 (Victoria), Building and Construction Industry Security of Payments Act 1999 (New South Wales), Construction Contracts Act 2004 (Western Australia), Building and Construction Industry Payments Act 2004 (Queensland), Construction Contracts (Security of Payments) Act (Northern Territory of Australia), Building and Construction Industry Security of Payments Act 2009 (Tasmania), Building and Construction Industry Security of Payments Act 2009 (South Australia) and Building and Construction Industry (Security of Payment) Act 2009 (Australian Capital Territory) may apply.                  Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the any of the Acts listed in clause 18.1 (each as applicable), except to the extent permitted by the Act where applicable.</p> <p><b>19. General</b>                  The failure by DMK to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect DMK's right to subsequently enforce that provision.                  If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.                  These terms and conditions and any contract to which they apply shall be governed by the laws of New South Wales in which DMK has its principal place of business, and are subject to the jurisdiction of the Sydney courts in New South Wales.                  Subject to clause 13, DMK shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by DMK of these terms and conditions (alternatively DMK's liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods).                  The Client shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Client by DMK nor to withhold payment of any invoice because part of that invoice is in dispute.                  DMK may license or sub-contract all or any part of its rights and obligations without the Client's consent.                  The Client agrees that DMK may amend these terms and conditions at any time. If DMK makes a change to these terms and conditions, then that change will take effect from the date on which DMK notifies the Client of such change. The Client will be taken to have accepted such changes if the Client makes a further request for DMK to provide Goods to the Client.                  Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.                  The Client warrants that it has the power to enter into this agreement and has obtained all necessary authorisations to allow it to do so, it is not insolvent and that this agreement creates binding and valid legal obligations on it.</p>
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## Personal/Directors Guarantee and Indemnity

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

("the Customer") [Insert Company Name In Box Provided]

### I/WE (also referred to as the "Guarantor/s") UNCONDITIONALLY AND IRREVOCABLY:

- GUARANTEE** the due and punctual payment to DMK of all monies which are now owing to DMK by the Customer and all further sums of money from time to time owing to DMK by the Customer in respect of goods and services supplied or to be supplied by DMK to the Customer or any other liability of the Customer to DMK, and the due observance and performance by the Customer of all its obligations contained or implied in any contract with DMK, including but not limited to the Terms & Conditions of Trade signed by the Customer and annexed to this Guarantee and Indemnity. If for any reason the Customer does not pay any amount owing to DMK the Guarantor will immediately on demand pay the relevant amount to DMK. In consideration of DMK agreeing to supply the Goods to the Customer, the Guarantor charges all of its right, title and interest (joint or several) in any land, realty or other assets capable of being charged, owned by the Guarantor now or in the future, to secure the performance by the Guarantor of its obligations under these terms and conditions (including, but not limited to, the payment of any money) and the Guarantor acknowledges that this personal guarantee and indemnity constitutes a security agreement for the purposes of the Personal Property Securities Act 2009 ("PPSA") and unequivocally consents to DMK registering any interest so charged. The Guarantor irrevocably appoints DMK and each director of DMK as the Guarantor's true and lawful attorney/s to perform all necessary acts to give effect to this clause including, but not limited to, signing any document on the Guarantor's behalf which DMK may reasonably require to:
  - register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
  - register any other document required to be registered by the PPSA or any other law; or
  - correct a defect in a statement referred to in clause 1(a) or 1(b).
- HOLD HARMLESS AND INDEMNIFY** DMK on demand as a separate obligation against any liability (including but not limited to damages, costs, losses and legal fees calculated on a solicitor and own client basis) incurred by, or assessed against, DMK in connection with:
  - the supply of goods and/or services to the Customer; or
  - the recovery of monies owing to DMK by the Customer including the enforcement of this Guarantee and Indemnity, and including but not limited to DMK's nominee's costs of collection and legal costs; or
  - monies paid by DMK with the Customer's consent in settlement of a dispute that arises or results from a dispute between, DMK, the Customer, and a third party or any combination thereof, over the supply of goods and/or services by DMK to the Customer.

### I/WE FURTHER ACKNOWLEDGE AND AGREE THAT

- I/We have received, read and understood DMK's Terms and Conditions prior to entering into this Guarantee and Indemnity and agree to be bound by those Terms and Conditions.**
- 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 monies owing to DMK by the Customer and all obligations herein have been fully paid satisfied and performed.
- No granting of credit, extension of further credit, or granting of time and no waiver, indulgence or neglect to sue on DMK's part (whether in respect of the Customer 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 Customer's obligations to DMK, each Guarantor shall be a principal debtor and liable to DMK accordingly.
- If any payment received or recovered by DMK is avoided by law such payment shall be deemed not to have discharged the liability of the Guarantor, and the Guarantor and DMK shall each be restored to the position in which they would have been had no such payment been made.
- 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 all 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.
- 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 Customer to DMK.**
- I/we irrevocably authorise DMK to obtain from any person or company any information which DMK may require for credit reference purposes. I/we further irrevocably authorise DMK 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 DMK as a result of this Guarantee and Indemnity being actioned by DMK.
- The above information is to be used by DMK for all purposes in connection with DMK considering this Guarantee and Indemnity and the subsequent enforcement of the same.

#### GUARANTOR-1

SIGNED: \_\_\_\_\_

FULL NAME: \_\_\_\_\_

HOME ADDRESS: \_\_\_\_\_

DATE OF BIRTH: \_\_\_\_\_

SIGNATURE OF WITNESS: \_\_\_\_\_

NAME OF WITNESS: \_\_\_\_\_

OCCUPATION: \_\_\_\_\_

PRESENT ADDRESS: \_\_\_\_\_

EXECUTED as a Deed this          day of          20\_\_\_\_

#### GUARANTOR-2

SIGNED: \_\_\_\_\_

FULL NAME: \_\_\_\_\_

HOME ADDRESS: \_\_\_\_\_

DATE OF BIRTH: \_\_\_\_\_

SIGNATURE OF WITNESS: \_\_\_\_\_

NAME OF WITNESS: \_\_\_\_\_

OCCUPATION: \_\_\_\_\_

PRESENT ADDRESS: \_\_\_\_\_

EXECUTED as a Deed this          day of          20\_\_\_\_

Note: 1. If the Customer is a sole trader or partnership the Guarantor(s) should be some other suitable person(s).

2. If the Customer 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**