TIMCO
MITRE 10 SALISBURY
172 Park Terrace
Salisbury Plain SA 5109
Phone: (08) 8258 3888
Fax: (08) 8281 4233

TIMCO
12 Lindsay Road
Lonsdale SA 5160
Phone: (08) 8381 5655
Fax: (08) 8387 2935

TIMCO SOUTHCOAST
MITRE 10 PT. ELLIOTT
Cnr. Pt Elliott & Brickyard Roads.
Pt Elliott SA 5212
Phone: (08) 8554 2312
Fax: (08) 8554 2602

CREDIT APPLICATION AND SECURITY AGREEMENT

** Registered Company Name:

Trading Name:

ABN: ACN:

Physical Address:

Postal Address:

Please Indicate: Company ☐ Partnership ☐ Sole Prop ☐ Govt. Dept. ☐ Trustee Co ☐ ** see below

Telephone: Facsimile: Mobile Phone:

Email:

Accounts Contact Name:

Nature of Business: How long in this Business:

Purchase Order Number Required: YES ☐ NO ☐ Builders License Number:

Bank Name: Branch:

BSB: Account Number:

Full name and residential addresses of all the Directors/Partners/Proprietors: (Please attach a separate page if insufficient space)

Name	Residential Address	Date of Birth	Drivers License

Please provide a minimum of four trade credit references:

Company Name	Contact Name	Telephone No.	Fax No.

This agreement constitutes a Security Agreement pursuant to the Personal Property Security Act 2009 (PPSA)

- Completing a Credit Application does not infer that credit will be granted.
- The document must be completed in full with no alterations or deletions. Any such alterations or deletions will void the application and a new form will have to be completed.
- The Company reserves the right to refuse credit to any Applicant without explanation.
- The Company reserves the right to suspend or withdraw credit facilities at any time without notice.
- Special Note: if the Company acts as, or is part of, a Trust/Nominee company then the provision of personal guarantee/s from the Trust Beneficiary/Beneficiaries is required to process this application.

General Terms and Conditions and Security Agreement

IN CONSIDERATION OF Timco Proprietary Limited, A.B.N. 56 007 541 095 and its associated and related entities, (hereinafter referred to as "the Company") providing commercial credit facilities to the party completing the application **(hereinafter referred to as "the Customer")** annexed to these conditions:-

(i) The Customer acknowledges and agrees that the following applies to and forms part of any contract for the supply of Goods and/or Services by the Company and that these General Terms and Conditions take precedence over any terms and conditions which may be contained in any document provided by the Customer. Any request from the Customer to the Company for the supply of Goods and / or Services shall constitute acceptance of these general terms and conditions.

(ii) The Customer hereby charges in favor of the Company all its estate and interest in any land and in any other assets, whether tangible or intangible, freehold or leasehold, in which it now has any legal or beneficial interest or in which it later acquires any such interest with payment of all monies owed by the Customer and consents to the lodging by the Company of a caveat or caveats which note its interest in or over any such land or other caveatable property;

(iii) The Customer acknowledges that where the Customer consists of more than one party or entity, liability shall be joint and several.

TERMS

These terms and conditions, including any Credit Limits set by the Company, are effective from the date of acceptance by the Customer and may be amended or superseded from time to time by notice given by the Company by any means. Unless or except specifically excluded herein, the company and the Customer retain any rights and remedies available to them in any prior or pre-existing agreement.

"Collateral" and/or "Goods" shall mean all goods and/or services supplied by the Company to the Customer, or ordered by the Customer but not yet supplied, and includes goods described on any quotation, invoice, purchase order or any other document including any recommendations and advice and over which the Company may intend to register a Security Interest.

"Price" shall mean the cost of the Collateral as referred to in the Company's price lists, prepared quotes and / or specific arrangements and shall be subject to change from time to time without notice.

1. Jurisdiction

a. This agreement shall be construed in accordance with laws of the **State of South Australia** and, where applicable the Commonwealth of Australia and the Customer submits to the non-exclusive jurisdiction of the courts of **South Australia**.

b. The Company shall have exclusive right to nominate the Court in which any legal action is to be commenced and conducted.

2. Personal Property Securities Act 2009 (PPSA)

a. The Customer grants and the Company may register on the Personal Property Securities Register, a security interest in all and any sale of Collateral under this agreement, including but not limited to intellectual property and all other present or after acquired property.

b. The Customer warrants that all purchases under this agreement are for commercial purposes only and, accordingly, the provisions of the Consumer Credit Act will not apply.

c. The Customer and the Company agree to contract out of the PPSA in accordance with section 115 of the PPSA to the extent that the section applies for the benefit of, and does not impose a burden on, the Company. The Customer waives its right to receive a copy of any Financing Statement or any Financing Change Statement registered by the Company in respect of the security interest created by these terms and conditions.

d. The Customer agrees to execute any documents, provide all relevant information and co-operate fully with the Company to ensure that the Company has a perfected security interest in the personal property charged and, if applicable, a Purchase Money Security Interest (PMSI).

e. The Customer agrees to notify the Company of any change in the Customer's structure or management including any sale or disposition of any part of the business of the Customer, any change in directorships, shareholders or management or change in partnership or trusteeship **7 days prior** to any such change taking effect.

f. The Customer agrees that, until all monies owing to the Company are paid in full, it shall not sell or grant any other Security Interest in the Collateral.

g. The Customer agrees to reimburse the Company for all costs and/or expenses incurred or payable by the Company in relation to registering, maintaining or releasing any financing statement or any other document in respect of any security interest under this agreement.

3. The Competition & Consumer Act 2010

a. The warranties, rights and remedies of the Customer as outlined in the Competition & Consumer Act 2010 are not intended to be compromised as a result of anything contained in these terms and conditions, except to the degree permitted by the Act.

4. Payment Terms

a. At the Company's sole discretion, a deposit may be required prior to any supply.

b. Credit Account Customers are required to pay all amounts for purchases, in full and with no deduction or set-off, no more than 30 days from the end of the month during which any given purchase is made.

c. In the event of a dispute, the complete undisputed portion of the account must be paid in accordance with the Payment Terms.

d. Should it be considered necessary by the Company to incur legal and/or any other expenses, including any such expenses to any debt collection agency, in obtaining, or attempting to obtain, payment for any amount due by the Customer, the Customer shall be liable for all such expenses. The Customer acknowledges that those expenses may be calculated on a commission basis at a percentage rate of up to 25% of the amount due and expressly agrees to pay those expenses irrespective of the amount of work actually performed by the agency.

e. Amounts received by the Company may be applied first against interest, charges and expenses.

f. Interest on overdue amounts may be charged at a rate of 1.50% per calendar month or part thereof and the Customer shall be liable for, and expressly undertakes to pay, all such interest.

g. Any payment made by or on behalf of a Customer which is later avoided by the application of any Statutory Provision shall be deemed not to discharge the Customer's indebtedness and, in such an event, the parties are to be restored to rights which each respectively would have had if the payment had not been made.

h. The Customer shall be liable for, and expressly undertakes to pay, all fees (including an Administration Fee in an amount to be set from time to time by the Company) for all costs incurred as a result of any cheque or electronic banking transaction being dishonored for whatever reason.

5. Delivery

a. The Company shall not be liable for any loss or damage, including consequential loss or damage, arising from delay in delivery or failure to deliver Collateral, either whole or in part, due to circumstances beyond its control.

6. Defects

a. The Customer shall inspect the Collateral upon delivery and will, within 48 hours, notify the Company of any defects, short deliveries or any failure to fulfill any quotation or order.

b. The Customer will, within a reasonable time following delivery, grant the Company access to the Collateral in order to inspect for any alleged defects.

c. Should the Customer fail to notify the Company within the specified period then the Collateral shall be deemed to be in compliance with the order and free from any defect whatsoever.

7. Warranty & Returns

a. The Company warrants that Collateral supplied shall be of merchantable quality.

b. The Company does not warrant that the Collateral are fit for a particular purpose and, except or unless otherwise stated herein, warranties relating to title, defects or conformity of the Collateral are expressly excluded.

c. Returns will be accepted only if prior arrangements have been made with the Company and charges, including but not limited to re-stocking fees, may apply.

d. Any costs associated with the return of Collateral for the purpose of a warranty claim shall be the responsibility of the Customer.

General Terms and Conditions and Security Agreement (Continued)

8. Retention of Title

a. Title in all the Collateral supplied shall remain vested in the Company and shall not pass to the Customer until all monies owing to the Company by the Customer together with all collection, repossession and / or legal costs incurred, have been paid in full. Until title passes to the Customer, the Customer acknowledges that these conditions create, in the Company's favor, a PPSA purchase money security interest in the Collateral and any proceeds of their sale.

b. The Company shall retain an equitable interest in the Collateral, whether separate or co-mingled or accessioned, which shall be stored in such a manner as to be clearly identifiable as the property of the Company, until title has passed to the Customer and further, upon re-sale of the Collateral by the Customer, the Company shall have the right to trace any proceeds of sale to the extent that they relate to its Collateral which are incorporated.

c. If payment has not been received, the Customer will transfer to the Company all of its rights in respect of the sale price.

d. The Company may demand at any time until title has passed to the Customer that the Customer returns the Collateral or any part of them.

e. In the event that the Customer defaults in the payment of any monies owing, the Company and its employees or agents shall have the right to enter without notice upon the Customer's premises or any other premises where the Collateral is known to be stored to repossess the Collateral and for this purpose the Customer shall grant reasonable access rights and the Company, its employees or agents shall be entitled to do all things required to secure repossession.

9. Risk

a. Notwithstanding Retention of Title provisions as per clause 8 hereof, the risk in Collateral purchased shall pass to the Customer upon delivery to the Customer or its agent or a carrier nominated by the Customer.

b. If any of the Collateral is damaged or destroyed prior to the title passing to the Customer, the Company is entitled, without affecting any other rights and remedies under any agreement, to any insurance proceeds payable for the Collateral.

10. Cancellation

a. The Company may cancel the delivery of Collateral at any time before delivery by giving notice to the Customer by any means.

b. The Company shall not be liable for any loss or damage, including any consequential loss or damage, arising from such cancellation.

c. The Customer may cancel the delivery of Collateral at any time before delivery by giving notice to the Company by any means.

d. In the event that the Customer cancels delivery of Collateral, the Customer shall be liable for any costs incurred by the Company up to the time of the cancellation including, but not limited to, any re-stocking fees incurred by the Company.

11. Limitation of Liability

a. The liability of the Company to the Customer for any reason related to the performance of Collateral under this agreement shall be limited to the replacement or repair of the Collateral or the amount paid or payable by the Customer in respect of the particular Collateral.

12. General

a. The Company accepts no responsibility for changes in any law which may affect supply.

b. Neither the Company nor the Customer shall be liable for any breach of any provision of any contract between them arising from an act of their respective God, natural disaster, terrorism, war or any other, specified or un-specified, occurrence beyond the control of either party.

c. The invalidity or unenforceability of any provision of these General Terms and Conditions shall not affect the validity or enforceability of the remaining provisions.

d. The Customer acknowledges that all purchases are made relying solely upon the Customer's own skill and judgment.

Notice of Disclosure of Your Credit Information to a Credit Reporting Agency

The Company is committed to protecting your privacy. Its policy is to comply with the National Privacy Principles for the handling of personal information as set out in the Privacy Act, 1988. In accordance with those principles, and with the Company's Privacy Policy, persons will be given access to their personal information upon request. The Company uses the types of personal information collected, to enable it to supply customers with its products and services and for assessing Applications for Commercial Credit, managing accounts and, if necessary, assessing its risk in, and collecting debts. This information may be disclosed to the Company's associated or related entities, parties related to the Customer's employment (e.g. referees and others as set out in the Privacy Policy) contractors, other credit providers, whether or not an account is overdue and, if necessary, its risk insurers, debt collectors and credit reporting agencies. If all or part of the information requested is not provided, the Company may not be able to consider any application or to provide credit facilities. Customers who have any concerns about the Privacy Policy are requested to direct them to
The General Manager, 172 Park Terrace, Salisbury Plain SA 5109.

I/We acknowledge and give consent that the Company may make enquiries as to the credit and financial situation of me or any of us and further consent to the use of any information obtained as a result of those enquiries, including information disclosed in the Credit Application, as the Company reasonably sees fit from time to time, for purposes including but not limited to;

- passing the information on to a credit reporting agency,
- passing the information on to a debt collector,
- obtaining further personal information, including consumer and/or commercial credit information, relating to me or any of us from another body for any use reasonably connected with provision of credit or the collection of debt subject to the provisions of the Privacy Act 1988.
- further, that the consent hereby given shall remain in force until all monies owing have been paid in full and the Customer no longer has an open account with the Company.

I have read and understood this document and have been advised, and given opportunity, to seek independent legal advice.

I warrant by signature/s below that the information given in support of this application is true and correct.

In the event that the Customer is an incorporated entity, the person signing this agreement warrants that they are authorized to sign on behalf of the Customer and to bind the Customer in contract.

Print Name: **Signature:** **Date:**

Title:

PERSONAL GUARANTEE, INDEMNITY & SECURITY AGREEMENT

IN CONSIDERATION OF Timco Proprietary Limited, A.B.N. 56 007 541 095 and its associated and related entities, (hereinafter referred to as „the Company") granting the Customer (as named in the Credit Application and Security Agreement and which forms a part of this document) trade credit, **I/WE GUARANTEE** payment to you of all monies 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.

I/WE HEREBY AGREE & ACKNOWLEDGE:

- That this is a continuing guarantee and,
- To indemnify you against all loss or damage arising from any past, present or future dealing with the Customer or any of us,
- That our liability under this guarantee is joint and several and will not be affected, waived or discharged by the reason of any time or indulgences granted by you or any grant to any of the guarantors of a release whether in whole or in part from any obligation contained in or implied by this guarantee and indemnity and,
- That our liability under this guarantee shall not be affected, waived or discharged by the Customer entering into a Deed of Company Arrangement (DOCA) or by the Company voting in favor of or against, or abstaining from voting, in relation to any proposal by the Customer to enter a DOCA and,
- That this guarantee becomes binding on such of us that sign this guarantee irrespective of whether or not all intended signatories execute this guarantee and,
- That the Company is entitled to recover against a Guarantor without having first taken steps to recover against the Customer or any other Guarantor and,
- That this guarantee may not be unilaterally revoked by us and remains in force until such time as we receive written confirmation from the Company that we are released from our obligations and liabilities under this guarantee.
- That any payment which is subsequently avoided by any law relating to insolvency shall be deemed not to have been paid and,
- That I/we indemnify the Company against losses or costs that it may suffer as a result of disgorging monies to a liquidator of the Customer and,
- That I/we sign in both our personal capacity and as Trustee of every Trust of which I/we are Trustee and/or a beneficiary and,
- To notify you of any change in the Customer's structure or management including any sale or disposition of any part of the business of the Customer, any change in directorships, shareholders or management or change in partnership or trusteeship **7 days prior** to any such change taking effect.
- To grant, and that the company may register on the Personal Property Securities Register, a security interest in the form of a Purchase Money Security Interest in this guarantee and that such security interest shall include all present and after-acquired property.
- I/We agree to reimburse the Company for any costs and/or expenses incurred or payable by the Company in relation to registering, maintaining or releasing any financial statement or any other document in respect of any security interest under this agreement.

I/WE HEREBY CHARGE in your favor all our estate and interest in any land and in any other assets, whether tangible or intangible, freehold or leasehold, in which we now have any legal or beneficial interest or in which we later acquire any such interest, with payment of all monies owed by the Customer or any of us and consent to the lodging by the Company of a caveat or caveats which note your interest in or over any such land or other caveatable property.

I/WE FURTHER AGREE that this agreement shall be governed by and construed in accordance with the laws of the **State of South Australia** and, where applicable, the Commonwealth of Australia, and I/WE submit to the non-exclusive jurisdiction of the courts of **South Australia.**

Notice of Disclosure of Your Credit Information to a Credit Reporting Agency

I/We acknowledge and give consent that the Company may make enquiries as to the credit and financial situation of any of us and further consent to the use of any information obtained as a result of those enquiries, including information disclosed in the Credit Application, as the Company reasonably sees fit from time to time, including but not limited to;

- passing the information on to a credit reporting agency
- passing the information on to a debt collector
- obtaining further personal information relating to any of us from another body for any use reasonably connected with provision of credit or the collection of debt subject to the provisions of the Privacy Act 1988.
- that the consent hereby given shall remain in force until all monies owing have been paid in full and the Customer no longer has an open account with the Company

GENERAL:

- "I" and "We"and "us" means each of the Guarantors jointly and severally.
- The invalidity or unenforceability of any provision of this Guarantee and Indemnity shall not affect the validity or enforceability of the remaining provisions.
- Clerical errors are subject to correction and do not bind the Company.

I/We have read and understood this document and have been advised, and given opportunity, to seek independent legal advice.

Guarantor Name (print)	**Signature**	**Date**
Drivers License Number	**Date of Birth**	
Witness Name (print)	**Signature**	**Date**

Guarantor Name (print)	**Signature**	**Date**
Drivers License Number	**Date of Birth**	
Witness Name (print)	**Signature**	**Date**

If there are insufficient Guarantor/Witness boxes, copies of the Personal Guarantee & Indemnity document are available from the Company.s office.