

## CREDIT APPLICATION FORM

FULL TRADING NAME \_\_\_\_\_

REGISTERED BUSINESS NAME OR COMPANY NAME \_\_\_\_\_(APPLICANT)

ABN: \_\_\_\_\_ ACN: \_\_\_\_\_

SOLE TRADER PARTNERSHIP TRUST Please circle one

COMMENCEMENT DATE OF TRADING UNDER THIS NAME \_\_\_\_\_

PUBLIC COMPANY PRIVATE COMPANY Please circle one

MAILING ADDRESS \_\_\_\_\_ P/CODE \_\_\_\_\_

STREET ADDRESS \_\_\_\_\_

\_\_\_\_\_ P/CODE \_\_\_\_\_

TELEPHONE NUMBER ( ) \_\_\_\_\_ FAX NUMBER ( ) \_\_\_\_\_

ARE BUSINESS PREMISES: OWNED LEASED/RENTED MORTGAGED Please circle one

BANK, BRANCH & ACCOUNT NO: \_\_\_\_\_

CONTACT NAME (ACCOUNTS) \_\_\_\_\_ NAME OF ACCOUNTANT/AUDITOR \_\_\_\_\_

**OWNER'S OR DIRECTORS' INFORMATION**

NAME \_\_\_\_\_ PRIVATE ADDRESS \_\_\_\_\_

TEL. NO. \_\_\_\_\_ DRIVER'S LICENCE NO. \_\_\_\_\_ DATE OF BIRTH \_\_\_\_\_

NAME \_\_\_\_\_ PRIVATE ADDRESS \_\_\_\_\_

TEL. NO. \_\_\_\_\_ DRIVER'S LICENCE NO. \_\_\_\_\_ DATE OF BIRTH \_\_\_\_\_

Paid up Capital of Company (if applicable) \$ \_\_\_\_\_

**TRADING REFERENCES** Please provide the names, addresses and telephone numbers of four (4) current references.

*Please Note: Trade References must be Wholesale Companies in the Industry that JTC sell within. No Freight Companies etc.*

NAME	ADDRESS	TELEPHONE NO.	FACSIMILE NO.
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____

## Trustee Company

Where the Applicant makes this application as a Trustee, it warrants and declares that it has the power and authority to make and execute this Credit Application and that all rights of indemnity which it now has or may have in the future or may otherwise have against the property of the Trust of which it is a Trustee or beneficiary or both, have not been modified or excluded as a result of any act, matter or document made or executed by it or as a result of any breach of fiduciary duty or in any other way. It warrants and declares further that it has not released and shall not release in the future and shall not cause or permit to be released, lost or diminished in any manner whatsoever, any such rights or indemnity.

NAME OF TRUST \_\_\_\_\_ NAME OF SETTLOR \_\_\_\_\_

DATE OF TRUST DEED \_\_\_\_\_ NAME OF TRUSTEE \_\_\_\_\_

ADDRESS OF TRUSTEE \_\_\_\_\_

### Applicants Signature

The Applicant acknowledges:

- (a) receipt of and accepts JTC Import/Export Pty. Ltd.'s Terms and Conditions; and
  - (b) that the Terms and Conditions may be changed by JTC Import/Export Pty. Ltd. from time to time.
- I/We warrant I am/we are authorised to sign this Credit Application on behalf of the Applicant.

DATE \_\_\_\_\_ DATE \_\_\_\_\_

NAME IN BLOCK LETTERS \_\_\_\_\_ NAME IN BLOCK LETTERS \_\_\_\_\_

POSITION \_\_\_\_\_ POSITION \_\_\_\_\_

SIGNATURE \_\_\_\_\_ SIGNATURE \_\_\_\_\_

MAXIMUM CREDIT LIMITED \_\_\_\_\_  
(Outstanding debtor and unbilled WIP)

SPECIAL TERMS (ie. Letter of Credit, Bank Guarantee, Pre-payment, adjustment of normal trading terms)

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Approved

\_\_\_\_\_  
Approved

\_\_\_\_\_  
National Credit Manager

\_\_\_\_\_  
Financial Controller

INTERNAL USE ONLY

Conduct of business with customer approved of the following terms:

# GUARANTEE & INDEMNITY

(This Guarantee and Indemnity is an important document. You should obtain independent legal and accounting advice in respect of this document prior to executing it. As part of your application for credit, this Guarantee and Indemnity must be completed and signed by all directors, sole traders and business partners.)

IN CONSIDERATION of all and any supplies of goods made on or before the signing hereof or that may be made hereafter by JTC Import Export Pty. Ltd. A.C.N. its branches and associated Companies (hereinafter called "The Suppliers") to The Customer (hereinafter called the "The Customer")

I/We, the undersigned Guarantor/s do hereby (if more than one guarantor "jointly and severally") agree with The Suppliers in the manner following:-

1. The Guarantor/s hereby guarantees to The Suppliers:
  - (a) the performance and payment of all accounts outstanding in the name of The Customer as remain outstanding at the expiration of 30 days from the date the same are first incurred by The Customer; and
  - (b) the performance and observance by the Customer of The Customer's obligations under The Supplier's Terms and Conditions for the supply of goods by The Supplier to the Customer from time to time on credit.
2. This guarantee shall be a continuing guarantee and shall not be considered as wholly or partially satisfied or discharged by any monies which may at any time or times hereafter be received or applied by The Suppliers to the credit of the account of The Customer and shall be available as a guarantee for the whole of the sums of money (including all sums or money whatsoever for the time being remaining unpaid on any account or accounts whether now existing or which may hereafter be opened) referred to in Clause 1 of this Guarantee and Indemnity (hereinafter collectively referred to as "the said indebtedness and liability").
3. The Guarantor/s charges as beneficial owner/s and as trustee of every trust all the Guarantor/s land (including land acquired in the future) in favour of The Suppliers to secure the payment of any monies and the performance and observance of the Guarantor/s covenants under this Guarantee and Indemnity. In this Clause "trust" means each trust for which the Guarantor/s holds land as a Trustee.
4. This guarantee shall not be determined or in any way prejudiced by (but is to continue to be binding upon the Guarantor/s) any change which shall or may be made by death or otherwise in The Customer or in the person or persons now or hereafter constituting The Customer and notwithstanding that the Guarantor/s ceases to be Director/s of The Customer and notwithstanding The Customer's amalgamation with or its absorption of or by any other corporation, company, firm or partnership.
5. The Guarantor/s obligations under this Guarantee and Indemnity are unconditional and not affected by anything which might otherwise affect them under the law relating to sureties including:
  - (a) Any change in the legal capacity, rights or obligations of the Guarantor/s, The Customer, a Co-surety or any other person; or
  - (b) The fact that, in relation to any of the said indebtedness and liability or any security, guarantee or indemnity for them, The Supplier;
    - i) obtains a judgment against the Customer, a Co-surety or any other person; or
    - ii) gives up, releases, varies or exchanges or fails to obtain, perfect, register or realise, or deal in any other way with any security, guarantee or indemnity; or
    - iii) grants time or any other concession to, or compounds or compromises with, or does or omits to do anything which affects the obligations of the Customer, a Co-surety or any other person to the Supplier or to the Guarantor; or
    - iv) receives any dividends out of the estate or assets of the Customer, a Co-surety or any other person for any reason; or
  - (c) The fact that any security, guarantee or indemnity held or taken by the Supplier is void, defective or informal or ranks after any other security or obligation for any reason; or
  - (d) Any failure to perfect or otherwise protect the secured party's security interest, or
  - (e) The death, mental or physical disability or insolvency of the Customer, a Co-surety or any other person; or
  - (f) A variation or extension to, or a stopping, replacement or refusal of any credit or other arrangement (including an increase in any credit or a variation in the terms of supply of goods) given to the Customer whether with or without the Guarantor/s consent or knowledge; or
  - (g) The fact that any said indebtedness and liability may not be recoverable from the Customer, a Co-surety or any other person for any reason; or
  - (h) The cessation of business by any firm or partnership which the Customer or the Guarantor/s comprises or any change in its members.
6. A Certificate signed by any of the Director/s, Secretary, Manager or authorised officers of the Suppliers shall be prima facie evidence of the amount of the said indebtedness and liability mentioned in such Certificate.
7. The Guarantor/s agree to indemnify The Supplier in respect of any loss, damage, costs or expenses suffered by or occasioned to The Supplier as a result of any failure by The Customer to pay all or any of the guaranteed moneys

or as a result of any failure by The Customer to duly and punctually perform and observe all or any of the terms and conditions and obligations contained in any agreement with The Supplier.

8. That this guarantee is in addition to and not in substitution for any security which The Supplier may hold in respect of the said indebtedness and liability or part thereof and may be enforced without first having recourse to any such security and without taking any steps or proceedings against The Customer whether pursuant to any such agreement or any security or otherwise notwithstanding that any such agreement or any security shall be in whole or part enforceable by reason of any rule of law or equity.
9. The obligations of the Guarantor/s under this deed are principal obligations and The Supplier is not required to take any action first against the Customer or make a demand first against the Customer.
10. That this guarantee is binding on the Guarantor/s and the Guarantor/s' executors, administrators and successors.
11. No granting of credit extension of further credit, or granting of time and no waiver, indulgence or neglect to sue on the Suppliers part (whether in respect of the Customer or ay one or more of the Guarantors) shall impair or limit the liability under the Guarantee and Indemnity of any Guarantor. Without affecting the Customer's obligations to the Supplier, each Guarantor shall be a principal debtor and liable to the Supplier accordingly.
12. That this guarantee will render the Guarantor/s liable to reimburse The Supplier for any moneys which The Supplier may have to pay or elect to pay to any liquidator official manager or Trustee in Bankruptcy of The Customer in response to any claim by such Liquidator official manager or Trustee in Bankruptcy for payment to him of any monies received by The Supplier from The Customer.
13. Each of the Guarantor/s:
  - (a) consents to The Supplier obtaining from a credit reporting agency a credit report containing personal credit information for the purpose of assessing whether to accept each Guarantor for the Obligations of The Customer, and acknowledges that if The Supplier agrees to extend credit to The Customer, this consent remains in force so long as the Guarantee remains in force;
  - (b) acknowledges that The Supplier may provide to a credit reporting agency certain personal information relating to each of the Guarantors as allowed by the Privacy Act 1988 (Commonwealth); and
  - (c) consents to The Supplier obtaining credit information from Trade References supplied for the purpose of assessing whether to accept each Guarantor as a guarantor for the obligations of The Customer.
14. The Guarantor/s shall pay all The Supplier's costs, fees and expenses associated with this Guarantee and Indemnity and the enforcement of this Guarantee and Indemnity.
15. The Guarantor/s fully understand the risks associated with this Guarantee and Indemnity and freely elects to execute this Guarantee and Indemnity. This Guarantee and Indemnity binds each of the signatories hereto as Guarantor/s. Each Guarantor to this Guarantee and Indemnity hereby acknowledges that it has read the terms of this Guarantee and Indemnity and has been:
  - (a) advised to; and
  - (b) given the opportunity to, seek independent legal advice prior to execution.

**Dated this**                                      **day of**                                      **20** .

**Guarantor/s Name:**                                      .....

**Guarantor/s Signature:**                                      .....

**Guarantor/s Address:**                                      .....

**Customer Name:**                                      .....

**Customer Signature:**                                      .....

**Witness Name:**                                      .....

**Witness Signature:**                                      .....

## TERMS AND CONDITIONS

### 1. General

These Terms and Conditions comprise the whole of the Agreement between JTC Import/Export Pty. Ltd. and the Applicant referred to in the Credit Application (**Customer**) along with those, if any, which are implied and which cannot be excluded by law (**Terms**). Any other contractual terms of the Customer (whether upon the Customer's order or elsewhere) which are contrary to or inconsistent with these Terms shall not apply nor shall they constitute a counteroffer. By receiving delivery and/or Supply of all or a portion of the materials and/or parts and/or labour and/or services, the Customer agrees that they shall be deemed to have accepted these Terms and that they shall apply to the exclusion of all others. All Goods are charged at the price ruling at the date of invoice and any Goods and Services Tax within the meaning of the A New Tax System (Goods and Services) Act 1999 (**GST**) or other government imposts shall be payable by the Customer.

### 2. Credit Term

2.1 Payment is due on or prior to thirty (30) days from the date of invoice rendered in respect of the Supply of the Goods unless otherwise stated in writing by JTC Import/Export Pty. Ltd. and JTC Import/Export Pty. Ltd. may charge liquidated damages at a rate equivalent to two percent (2%) in excess of the rate of interest for the time being fixed under Section 2 of the Penalty Interest Rates Act 1983 (Vic) if payment is not received by the due date.

2.2 The Customer is liable for all reasonable expenses (including contingent expenses such as debt collection commission) and legal costs (on a Solicitor/client basis) incurred by JTC Import/Export Pty. Ltd. for enforcement of obligations and recovery of monies due from the Customer to JTC Import/Export Pty. Ltd..

### 3. Delivery & Supply

Any times quoted for delivery and/or supply are estimates only and JTC Import/Export Pty. Ltd. shall not be liable for failure to deliver/supply, or for the delay in delivery/supply. The Customer shall not be relieved of any obligation to accept or pay for Goods, by reason of any delay in delivery, supply or dispatch. JTC Import/Export Pty. Ltd. reserves the right to stop supply at any time if the Customer fails to comply with the Terms.

### 4. Risk and Title

4.1 Until full payment has been made for all Goods supplied by JTC Import/Export Pty. Ltd. under these Terms (**Goods**), and any other sums in any way outstanding from the Customer to JTC Import/Export Pty. Ltd. from time to time:

4.1.1 all sums outstanding become immediately due and payable by the Customer to JTC Import/Export Pty. Ltd. if the Customer makes default in paying any other sums due to JTC Import/Export Pty. Ltd., becomes bankrupt, or commits any act of bankruptcy, compounds with its creditors has judgment entered against it in any court, or, being a company, has a provisional liquidator, liquidator, receiver, receiver manager or administrator appointed, notwithstanding the provisions of any other clause in these Terms;

4.1.2 the property in the Goods shall not pass to the Customer and the Customer shall hold the Goods as Bailee for JTC Import/Export Pty. Ltd. (returning the same to JTC Import/Export Pty. Ltd. on request);

4.1.3 the Goods shall be at the risk of the Customer from the time of delivery/supply and the Customer must insure the Goods from the time of delivery/supply. If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Customer, JTC Import/Export Pty. Ltd. is entitled to receive all insurance proceeds payable for the Goods. The production of these Terms by JTC Import/Export Pty. Ltd. is sufficient evidence of JTC Import/Export Pty. Ltd.'s rights to receive the insurance proceeds without the need for any person dealing with JTC Import/Export Pty. Ltd. to make further enquiries;

4.1.4 the Customer is only authorised to sell the Goods (or any portion of them) to third parties as the fiduciary agent of JTC Import/Export Pty. Ltd. provided that there shall be no right to bind JTC Import/Export Pty. Ltd. to any liability to such third party by contract or otherwise. All payments (direct or indirect) received from such third parties by the Customer for the Goods (or any portion of them) shall be held on trust for JTC Import/Export Pty. Ltd. pursuant to the fiduciary relationship;

4.1.5 in the event that the Customer incorporates or transforms the Goods (or any portion of them) into any other goods or products produced by the Customer (or a third party), then the Customer must hold a proportion of any payment ("relevant proportion") received by the Customer for such goods or products on trust for JTC Import/Export Pty. Ltd. The Customer expressly acknowledges that the relevant proportion shall be equal to the dollar value the portion of the Goods incorporated or transformed and the Customer further acknowledges that any part payment (not exceeding the relevant proportion) received by the Customer for such goods or products is received as payment first of the relevant proportion.

4.1.6 JTC Import/Export Pty. Ltd. is irrevocably authorised to enter any premises where the Goods are kept, and to use the name of the Customer and to act on its behalf, if necessary, to recover possession of the Goods.

4.2 If the Customer requests JTC Import/Export Pty. Ltd. to leave Goods outside JTC Import/Export Pty. Ltd.'s premises for collection or to deliver the Goods to an unattended location, then such Goods shall be left at the Customer's sole risk.

4.3 Receipt by JTC Import/Export Pty. Ltd. 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.

4.4 It is further agreed that, until ownership of the Goods passes to the Customer JTC Import/Export Pty. Ltd. may:

4.4.1 recover possession of any Goods in transit whether or not delivery has occurred

4.4.2 commence proceedings to recover the price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Customer.

### 5. Personal Property Securities Act 2009 (PPSA)

5.1 In this clause, financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.

5.2 Upon assenting to these Terms, the Customer acknowledges and agrees that these Terms 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 Customer to JTC Import/Export Pty. Ltd. – that have previously been supplied and that will be supplied in the future by JTC Import/Export Pty. Ltd. to the Customer.

5.3 The Customer grants JTC Import/Export Pty. Ltd. a security interest in all present and after acquired Goods supplied by JTC Import/Export Pty. Ltd. and their proceeds to secure all moneys owing to JTC Import/Export Pty. Ltd. now and in the future in respect of the Supply of Goods.

5.4 The Customer undertake to provide any information that JTC Import/Export Pty. Ltd. may reasonably require to enable JTC Import/Export Pty. Ltd. to perfect and maintain the perfection of JTC Import/Export Pty. Ltd.'s security interest (including by registration of a financing statement).

5.5 The Customer undertake to immediately notify JTC Import/Export Pty. Ltd. in writing of any changes in the Customer's name and/or any other change in the Customer's details (including, but not limited to, changes in the Customer's address, facsimile number, trading name or business practice).

5.6 The Customer undertakes to:

5.6.1 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 JTC Import/Export Pty. Ltd. may reasonably require to:

(a) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;

(b) register any other document required to be registered by the PPSA; or  
(c) correct a defect in a statement referred to in clause 5.6.1(a) or 5.6.1(b);

5.6.2 indemnify, and upon demand reimburse, JTC Import/Export Pty. Ltd. 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;

5.6.3 not register a financing change statement in respect of a security interest without the prior written consent of JTC Import/Export Pty. Ltd.;

5.6.4 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 JTC Import/Export Pty. Ltd.;

5.6.5 immediately advise JTC Import/Export Pty. Ltd. 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.

5.7 The Customer waives its right to receive a verification statement in respect of any financing statement and agrees to the extent permitted by law that:

5.7.1 Where JTC Import/Export Pty. Ltd. have rights in addition to, or existing separately from those in Chapter 4 of the PPSA, those rights will continue to apply and in particular, will not be limited by Part 4.3 in Chapter 4; and

5.7.2 Sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these Terms.

5.7.3 The rights of the Customer as debtor under Sections 130,132,135,137, 140, 142 and 143 shall not apply to these Terms.

5.7.4 Unless otherwise agreed to in writing by JTC Import/Export Pty. Ltd. the Customer waives their right to receive a verification statement in accordance with section 157 of the PPSA.

5.8 The Customer will pay all costs, expenses and other charges incurred, expended or payable by JTC Import/Export Pty. Ltd. in relation to the filing of a financing statement or financing change statement in connection with these terms and conditions.

5.9 The Customer agrees that it will not allow security interests to be created or registered over the Goods in priority to the security interest(s) held by JTC Import/Export Pty. Ltd..

5.10 Subject to any express provisions to the contrary (including those contained in this clause 5), nothing in these Terms is intended to have the effect of contracting out of any of the provisions of the PPSA. The Customer further agrees that where JTC Import/Export Pty. Ltd. has rights in addition to those under Chapter 4 of the PPSA those rights will continue to apply.

5.11 Goods means all Goods JTC Import/Export Pty. Ltd. supplies to the Customer from time to time, provided that:

5.11.1 (but solely for the purpose of the application of the PPSA) where the Goods supplied are the Customer's inventory, then all references to Goods in these Terms shall in respect of those goods, be read as references to inventory for so long as they are held as inventory; and

5.11.2 where the Goods supplied are not, or are no longer held as the Customer's inventory, then all references to Goods in these Terms shall, in respect of those Goods mean the Goods described in any one or more of the relevant order form, packing slip or invoice (or its equivalent, whatever called) prepared by JTC Import/Export Pty. Ltd. and relating to those Goods, on the basis that each such order form, packing slip or invoice (or its equivalent) is deemed to be assented to by the Customer, incorporated in, and form part of these Terms; and

5.11.3 unless the context requires otherwise, includes all proceeds of such Goods and any product or mass which the Goods subsequently become part of.

### 6. Security and Charge

6.1 In consideration of JTC Import/Export Pty. Ltd. agreeing to supply the Goods, the Customer charges all of its rights, title and interest (joint or several) as beneficial owner and as trustee of every trust in all the Customer's land (including land acquired in the future), realty or other assets capable of being charged, in favour of JTC Import/Export Pty. Ltd. to secure the payment of monies and the performance and observance by the Customer of its obligations under these Terms (including, but not limited to, the payment of any money). In this clause "trust" means each trust for which the Customer holds land as trustee.

6.2 The Customer indemnifies JTC Import/Export Pty. Ltd. from and against all JTC Import/Export Pty. Ltd.'s costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising JTC Import/Export Pty. Ltd.'s rights under this clause.

6.3 The Customer irrevocably appoints JTC Import/Export Pty. Ltd. and each director of JTC Import/Export Pty. Ltd. as the Customer's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 6 including, but not limited to, signing any document on the Customer's behalf.

### 7. Cancellation & Claims

7.1. No cancellation or partial cancellation of any order by the Customer shall be accepted by JTC Import/Export Pty. Ltd. unless it has first consented in writing to such cancellation or partial cancellation and unless a cancellation charge which shall not be unreasonably determined by JTC Import/Export Pty. Ltd. so as to indemnify JTC Import/Export Pty. Ltd. against all loss, without limitation has been paid by the Customer. Cancellation will not be accepted on goods that are not regular stock which are in the process of manufacture or ready for shipment.

7.2 All complaints, claims or notification of lost Goods, incomplete Goods, Goods damaged in transit or Goods that do not comply with the Customer's purchase order or instructions must be submitted by the Customer to JTC Import/Export Pty. Ltd. in writing within seven (7) business days of the date of the invoice rendered for the Supply of the Goods. Otherwise, the Customer shall be deemed to have accepted the Goods and shall not refuse to pay for the Goods on the basis that they were lost, incomplete, damaged in transit, or do not comply with the Customer's purchase order or instructions.

### 8. Privacy Act 1988 ("Privacy Act")

To enable JTC Import/Export Pty. Ltd. to access the Customer's Application for credit, the Customer authorises JTC Import/Export Pty. Ltd.:

8.1 to obtain from a credit reporting agency a credit report containing personal information about the Customer and its Guarantors pursuant to Section 18K(1)(b) of the Privacy Act; and  
8.2 to obtain a report from a credit reporting agency and other information in relation to the Customer's commercial credit activities.

8.3 In accordance with Section 18N(1)(b) of the Privacy Act the Customer authorises JTC Import/Export Pty. Ltd. to give to and obtain from any credit provider named in a credit report issued by a credit reporting agency information about the Customer's credit arrangements.

The Customer understands that this information can include any information about its credit worthiness, credit standing, credit history or credit capacity that credit providers are allowed to give or receive from each other under the Privacy Act. The Customer understands the information can be used for the purposes of assessing its application for credit, assisting it to avoid defaulting on its credit obligations, notifying other credit providers of a default by it and assessing its credit worthiness.

8.4 The Customer agrees that personal credit information provided may be used and retained by JTC Import/Export Pty. Ltd. for the following purposes (and for other agreed purposes or required by):

- (a) The provision of Goods;
- (b) Analysing, verifying and/or checking the Customer's credit, payment and/or status in relation to the provision of Goods;
- (c) Processing of any payment instructions, direct debt facilities and/or credit facilities requested by the Customer; and
- (d) Enabling the collection of amounts outstanding in relation to the Goods.

8.5 JTC Import/Export Pty. Ltd. will destroy personal information upon the Customer's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this contract or is required to be maintained and/or stored in accordance with the law.

#### **9. Notification**

The Customer must notify JTC Import/Export Pty. Ltd. in writing within seven (7) days of:

- 9.1 any alteration of the name or ownership of the Customer;
- 9.2 the issue of any legal proceedings against the Customer;
- 9.3 the appointment of any provisional liquidator, liquidator, receiver, receiver manager or administrator to the Customer;
- 9.4 any change in the ownership of the business name of the Customer.

The Customer agrees that it shall be liable to JTC Import/Export Pty. Ltd. for all Goods supplied to the new owner by JTC Import/Export Pty. Ltd. until notice of any such change is received.

#### **10. Warranties**

10.1 No warranties except those which cannot be excluded by law are given by JTC Import/Export Pty. Ltd. in respect of goods or services supplied. Where goods have been sold at significantly under normal pricing as job lots or as specials the Customer hereby confirms that they have purchased such goods with full knowledge that there are no warranties and that the goods may not be fit for the purpose or of merchantable quality. The Customer has undertaken its own tests of said goods and accepts said Goods in their current state and will make no claim against JTC Import/Export Pty. Ltd. in respect of the Supply of said goods. Where it is lawful to do so, the liability of JTC Import/Export Pty. Ltd. for a breach of a condition of Warranty is limited to the repair or replacement of the goods, the Supply of equivalent goods, the payment of the cost of repairing or replacing the goods or acquiring equivalent goods, the Supplying of the services again or the payment of the cost of having the services supplied again, as determined by JTC Import/Export Pty. Ltd.. JTC Import/Export Pty. Ltd. shall not be obliged to replace or repair any Goods or make any allowance or other arrangements if, in the reasonable opinion of JTC Import/Export Pty. Ltd., the defect has arisen from accident, misuse, neglect, incorrect installation, lack of reasonable maintenance or any other cause beyond the reasonable control of JTC Import/Export Pty. Ltd..

10.2 To the extent permitted under the Australian Consumer Law, notwithstanding any provision in these Terms, the Customer must not make a claim or demand against JTC Import/Export Pty. Ltd. or its agents for consequential, indirect, special, incidental, exemplary or economic damage or loss (including loss of use, loss of revenue, loss of profit, business interruption, costs of procurement or substitution of Goods, technology or services or loss of information) arising in connection with the supply of Goods pursuant to these Terms (including any claim in negligence, equity or otherwise). The Customer agrees that this provision is necessary to protect JTC Import/Export Pty. Ltd.'s business.

#### **11. Competition and Consumer Act 2010**

11.1 Where the Terms would otherwise be subject to the Competition and Consumer Act 2010 ("Act"), the Customer agrees that it is acquiring the Goods for business purposes and that the Act does not apply to the Supply of the Goods to the Customer.

11.2 If the Customer is a consumer as defined in section 4B of the Competition and Consumer Act 2010, and the Customer has not contracted out of the Act under clause 11.1 of these Terms, nothing in these Terms will limit any rights the Customer may have under this Act.

#### **12. Legal Construction**

12.1 These Terms shall be governed by and interpreted according to the laws of Victoria and JTC Import/Export Pty. Ltd. and the Customer consent and submit to the jurisdiction of the Courts of Victoria.

12.2 Notwithstanding that any provision of the Terms may prove to be illegal or unenforceable pursuant to any statute or rule of law or for any other reason that provision is deemed omitted without affecting the legality of the remaining provisions and the remaining provisions of the Terms shall continue in full force and effect.

12.3 The Customer agrees that it has had an opportunity to negotiate any concerning terms within these Terms with JTC Import/Export Pty. Ltd. prior to accepting them and that any negotiated terms must be in writing and agreed by both parties.

12.4 Subject to clause 10, JTC Import/Export Pty. Ltd. shall be under no liability whatsoever to the Customer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by JTC Import/Export Pty. Ltd. of these Terms (alternatively JTC Import/Export Pty. Ltd.'s liability shall be limited to damaged which under no circumstances shall exceed the price of the Goods).

12.5 The Customer agrees that JTC Import/Export Pty. Ltd. may amend these Terms by notifying the Customer in writing. These changes shall be deemed to take effect from the date on which the Customer accepts such changes, or otherwise at such time as the Customer makes a further request for JTC Import/Export Pty. Ltd. to provide Goods to the Customer.

12.6 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.

12.7 The Customer cannot licence or assign all or any part of its right and/or obligations under this Contract without the written approval of JTC Import/Export Pty. Ltd..

12.8 Both parties warrant that they have the power to enter into this contract and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this contract creates binding and valid legal obligations on them.