



PO Box 18087, Glen Innes, AUCKLAND 1743  
 88 Merton Rd, Saint Johns, AUCKLAND 1072  
 Phone (09) 521 3609 Fax (09) 521 0095  
 www.dysart.co.nz

**DYSART TIMBERS LIMITED – DYSART MANUFACTURING LIMITED “DYSART”**

Should you be concerned about this form please seek legal advice

**CREDIT ACCOUNT APPLICATION**

**ALL DETAILS MUST BE COMPLETED IN FULL AND PLEASE ENSURE IT IS READABLE**

Your type of business:  
 Please tick the box:

Sole trader:

Partnership

Limited Liability Company:

Trust: **\*\* Attach Deed \*\***

Incorporated Society:

**BUSINESS DETAILS:**

A GUARANTOR IS REQUIRED FOR THE FOLLOWING:  
 LIMITED LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP and INCORPORATED SOCIETY.  
 If a TRUST all Trustees must sign as GUARANTOR/S

**ACCOUNT NAME:** \_\_\_\_\_  
 "Customer" Where the customer is a sole trader or partnership the individual/s is the legal entity

**SHOULD YOU BE A COMPANY Please provide Registration Number:** \_\_\_\_\_

**Office Phone:** (\_\_\_\_) \_\_\_\_\_ **Office Fax:** (\_\_\_\_) \_\_\_\_\_

**Office Email:** \_\_\_\_\_

**POSTAL ADDRESS:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ Post Code:

**PHYSICAL ADDRESS:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ Post Code:

**MANAGER**

**Managers Name:** \_\_\_\_\_

**Managers Email:** \_\_\_\_\_

**Mobile:** (\_\_\_\_) \_\_\_\_\_

**PAYMENT PERSON**

**A/c's Payable Name:** \_\_\_\_\_

**A/c's Payable Email:** \_\_\_\_\_

**Direct Phone No:** (\_\_\_\_) \_\_\_\_\_

**If building - type of activity:**  
 Please tick the box:

**Commercial:**

**Residential:**

**Labour only:**

**Home Owner:**

**Other:** \_\_\_\_\_

From what source of funding will you be intending to pay your account from: (Please tick box below:)

Own Funds  Bank Borrowing  Work undertaken

What method of payment will you use to pay your account: (Please tick box below:)

Cheque  Direct Credit  Credit Card (late pymt incurs 1.5%)

**ADDITIONAL BUSINESS DETAILS**

**ARE ORDER NUMBERS REQUIRED: (Circle) Y / N** **DO YOUR REQUIRE INVOICES BY EMAIL: (Circle) Y / N**  
 (There is a charge for invoices received by mail)

**DO YOU REQUIRE INTERNET ACCESS TO SEE YOUR ACCOUNT: (Circle) Y / N**

**Requested Credit Limit on Account: \$** \_\_\_\_\_ **Dysart reserve the right to alter the amount at any time.**

**Period Trading under Present Owners:** \_\_\_\_\_ (years) **Vehicle Registration for collection of supplies:** \_\_\_\_\_

**TRADE REFERENCE:**

Please supply two firms that you have monthly accounts with. (NO UTILITIES)  
 FOR BUILDERS WE REQUIRE TWO WHO SUPPLY BUILDING PRODUCTS. They should be of equal or greater value than the credit limit requested

1) **SUPPLIERS NAME:** ..... **Phone No.:** .....

2) **SUPPLIERS NAME:** ..... **Phone No.:** .....

**CUSTOMER ACCEPTANCE**

I/We certify that all information supplied in this application is true, correct and complete. No information is withheld of which Dysart's should be aware in considering this application for credit. If such information is incorrect, Dysart may terminate this agreement. I/We acknowledge that I/We have been offered the opportunity to obtain independent legal advice. We have obtained or waive right to do so.

I/We agree to be bound by the Terms and Conditions of Sale, and have read and understood them and these may be viewed on our web site or a further copy will be supplied upon request.

Where purchases are charged to a credit account, then payment is due by the 20<sup>th</sup> of the month following the date of invoice. I/We authorise the transfer of any credit balance that may occur between Company accounts at Dysart's discretion. **All debts in excess of trading terms will invoke "STOP SUPPLY"**

It shall be the sole responsibility of the Customer to supervise the use of the account and supply an order number when ordering goods.

A late payment or overdue fee/charge may apply each month, if you do not make payment as shown on the monthly statement by the due date.

Other fees and charges may be imposed by us and may be charged from time to time. Fees and charges are debited to your account and may include - statement copy charges and invoice copy charges. Where a credit card is presented for payment of a credit account, we reserve the right to add any transaction fee and/or surcharge cost.

The Customer/Guarantor shall pay or reimburse for all costs and/or expenses incurred by the Company in instructing a solicitor and/or Debt Collection Agency to recover any amount overdue for payment and such costs and expenses shall bear interest.

The Customer/Guarantor agree to accept the venue of the High Court at Auckland and the District Court and Disputes Tribunal within the Auckland region as the venue for any claim or proceedings between the parties

A trustee's liability is not limited to the assets of the trust but shall be jointly and severally liable to the extent of the obligations incurred.

**A/C Number**  **Salesman**  **Price Level**  **PLEASE INITIAL PAGE**



## IDENTITY DETAILS OF PEOPLE INVOLVED IN BUSINESS

Individuals includes Partners in a Partnership and Company Directors

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

First Name Middle Name Family Name

Date of Birth:

Residential Address: \_\_\_\_\_  
\_\_\_\_\_

Home Ph No. (\_\_\_\_) \_\_\_\_\_ Mobile: \_\_\_\_\_

Occupation: \_\_\_\_\_

Employer: \_\_\_\_\_

Length of time with present employer: \_\_\_\_\_ (years)

Wife/Husband /Partner's Name: \_\_\_\_\_

Have you or your partner ever had proceedings for bankruptcy, insolvency or debt recovery brought against you: YES  NO

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

First Name Middle Name Family Name

Date of Birth:

Residential Address: \_\_\_\_\_  
\_\_\_\_\_

Home Ph No. (\_\_\_\_) \_\_\_\_\_ Mobile: \_\_\_\_\_

Occupation: \_\_\_\_\_

Employer: \_\_\_\_\_

Length of time with present employer: \_\_\_\_\_ (years)

Wife/Husband/Partner's Name: \_\_\_\_\_

Have you or your partner ever had proceedings for bankruptcy, insolvency or debt recovery brought against you: YES  NO

Close Friend or Relatives Name: \_\_\_\_\_

I confirm I have the permission of the person named as "Close friend or relative" in this application to disclose their personal information.

Do you own your own home: (Tick Box) YES  NO

Do you have a mortgage: (Tick Box) YES  NO

Do you rent your home: (Tick Box) YES  NO

Friend or Relatives phone number: \_\_\_\_\_

Do you own your own home: (Tick Box) YES  NO

Do you have a mortgage: (Tick Box) YES  NO

Do you rent your home: (Tick Box) YES  NO

## IDENTIFICATION: Please note that we need to verify your identity as part of this application:

A suitable form of ID is either a **New Zealand Drivers Licence or your Passport – PLEASE ATTACH A COPY OF ONE OF THE OPTIONS.**

**Should you provide your driver's licence details you do so voluntary and are aware we will verify identity with a Credit Reporting agency:**

**If you are unable to provide a copy of your Drivers Licence you may complete the following details so we can confirm identity with a Credit Reporting agency:**

Name on Drivers Licence: \_\_\_\_\_

Drivers Licence No:          
(Item 5a):

Card version No: (Item 5b):

Name on Drivers Licence: \_\_\_\_\_

Drivers Licence Number:          
(Item 5a):

Card version No (Item 5b):

### CONSENT FOR THE COLLECTION OF INFORMATION

I/We consent to and authorise the collection, use and disclosure of my/our personal information and this authority is irrevocable:

Dysart Timbers Limited, Dysart Manufacturing Limited and its successors and assigns, may make all necessary enquiries (now and in the future) concerning my/our credit record, residence, employment, financial status, and any information provided by me/us in this application for the purposes related to the provision of credit to me/us, from whatever source Dysart considers appropriate, including any credit reporting agency and any other party approached may provide such information to Dysart. A Credit Reporting agency will hold that information on their systems and by doing so allow other customers of the reporting agency to use that information.

I/We have the right to access and correct my/our personal information held by Dysart subject to the provisions of the Privacy Act 1993.

The Customer and any Guarantor agree that any information about them provided at any time to the Company may be used by the Company for any purpose connected with its business including (but not limited to) direct marketing, debt collection, credit reporting or assessment and credit profiles. The Company is authorised to provide such information to any external agency or party for credit information and assessment purposes and that agency or party is hereby authorised to use and continue to use such information as part of their business services. The Company and the external agency or party may retain and/or use such information for as long as they see fit.

### Express Acknowledgement of the Provision of Security

Customer/Guarantor have been made aware of Clauses 9 and 20 namely, the security and provision of an Agreement to mortgage or Purchase Money Security Interest, over any property owned by the "Customer/Guarantor".

Customer/Guarantor accepts and hereby provides agreement for the taking of security by Dysart Timbers Limited, Dysart Manufacturing Limited in accordance with Clauses 9 and 20 contained within the Terms and Conditions of Sale.

Customer/Guarantor agrees that "the Company" shall have the right to complete and register a mortgage over any property owned by the Customer or Guarantor. It also has the right at its discretion to lodge a caveat on such property. Customer/Guarantor hereby irrevocably appoints "the Company" as the attorney of Customer/Guarantor for the purpose of "the Company" exercising its rights under this clause whilst any debt remains outstanding.

**Signed by the applicant(s) or authorised signatories:** The undersigned represents and warrants that the undersigned is duly authorised to execute this application on behalf of the customer and that when executed it shall be legally binding upon the customer.

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name below signature: \_\_\_\_\_

Print Name below signature: \_\_\_\_\_

Should this credit application form indicate that the Customer is a legal entity, and that legal entity does not exist, any person signing this credit application form shall be personally liable and, if more than one, jointly and severally liable for all amounts payable to the Company in relation to any supply contract.

Witness: \_\_\_\_\_

Witness: \_\_\_\_\_



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## **PERSONAL GUARANTEE AND INDEMNITY**

A GUARANTOR IS REQUIRED IF YOU ARE A LIMITED LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP, INCORPORATED SOCIETY OR TRUST

This deed of guarantee and indemnity is made this date:

**BETWEEN: DYSART TIMBERS LIMITED and DYSART MANUFACTURING LIMITED  
 and its successors and assigns ('the Company')**

**IN CONSIDERATION** of you at our request supplying any goods or services or any other advances to the Customer:

**NAME OF ACCOUNT:** \_\_\_\_\_ ("**Customer**")

FULL LEGAL NAME OF LIMITED LIABILITY COMPANY / TRUST / INCORPORATED SOCIETY / LIMITED LIABILITY PARTNERSHIP

**I/We jointly and severally agree as follows: (Details of guarantor(s) – person(s) giving guarantee) ALL DIRECTORS TO COMPLETE**

**Full Name:** \_\_\_\_\_

**Full Name:** \_\_\_\_\_

PLEASE ENSURE WE CAN READ YOUR NAME

PLEASE ENSURE WE CAN READ YOUR NAME

**Date of Birth:**

**Date of Birth:**

**Drivers Licence No:** \_\_\_\_\_ **Version No:** \_\_\_\_\_

**Drivers Licence No:** \_\_\_\_\_ **Version No:** \_\_\_\_\_

**Address (as security)** \_\_\_\_\_

**Address (as security)** \_\_\_\_\_

1. **GUARANTEE** the due and punctual payment of all moneys, performance and obligations as contained within the Terms and Conditions of Sale in respect of any failure by the Customer to pay the monies which may be due or comply with any obligations contained herein and will immediately on demand pay the relevant amount to "the Company": and
2. **ACKNOWLEDGE** that this guarantee and indemnity is a continuing and irrevocable guarantee and shall remain in full force, unless the "the Company" grants a written release, for all debts contracted by the "Customer" with "the Company" and shall continue in force even if the Customer's account with "the Company" is from time to time in credit: and
3. **FURTHER ACKNOWLEDGE** that:
  - (a) You can look to me/us for payment as though I/we were the "Customer" and our relationship with you was that of a principal debtor: and
  - (b) My liability under the guarantee shall not be affected or discharged by the granting of time or credit to the account holder, or by the release, abandonment, waiver or forbearance to sue of any rights against the account holder, or the winding up or bankruptcy of the account holder, or any other indulgence to the account holder; and this guarantee and indemnity shall not be discharged by the receivership, liquidation, bankruptcy or death of the customer or the guarantor; and
  - (c) I/We also hereby agree, independently of the foregoing guarantee, to indemnify you against all loss, costs and other expenses (including solicitor/client costs) which you may suffer or incur as a result of failure by the Customer or my/our failure as guarantor to make due and punctual payment.
  - (d) The Guarantor(s) expressly acknowledge that the Terms and Conditions of Sale have been read, understood and are accepted without reservation. The Guarantor(s) further acknowledge that the opportunity to obtain independent legal advice has been provided and they have obtained or waived their right to obtain advise; and
4. **SECURITY:** The Guarantor agrees that "the Company" shall have the right to complete and register a mortgage over any property owned by the Guarantor and also have the right at its discretion to lodge a caveat on such property and the Guarantor hereby irrevocably appoints "the Company" as the attorney of the Guarantor for the purpose of "the Company" exercising its rights under this clause whilst any debt remains outstanding.

**Signature of Guarantor:** \_\_\_\_\_

**Signature of Guarantor:** \_\_\_\_\_

**Witness Signature:** \_\_\_\_\_

**Witness Signature:** \_\_\_\_\_

**Witness Name:** \_\_\_\_\_

**Witness Name:** \_\_\_\_\_

**Witness Phone number:** ( ) \_\_\_\_\_

**Witness Phone number:** ( ) \_\_\_\_\_

I/We consent to and authorise the collection, use and disclosure of my/our personal information in the following way and this authority is irrevocable:  
 "The Company" and its successors and assigns may make all necessary enquiries (now and in the future) concerning my/our credit record, residence, employment, financial status, and any information provided by me/us in this application for the purposes related to provision of credit to me/us, from whatever source the Company considers appropriate, including any credit reporting agency and any other party approached may provide such information to the Company. A credit reporting agency will hold that information on their systems and by doing so allow other customers of the reporting agency to use that information. I/we have the right to access and correct my/our personal information held by Dysart subject to the provisions of the Privacy Act 1993.

The Customer and any Guarantor agree that any information about them provided at any time to the Company may be used by the Company for any purpose connected with its business including (but not limited to) direct marketing, debt collection, credit reporting or assessment and credit profiles. The Company is authorised to provide such information to any external agency or party for credit information and assessment purposes and that agency or party is hereby authorised to use and continue to use such information as part of their business services. The Company and the external agency or party may retain and/or use such information for as long as they see fit.

**Guarantor to sign above**

**TERMS AND CONDITIONS OF SALE**

**A** The term "the Company" refers to Dysart Timbers Limited, Dysart Manufacturing Limited, its successors and assigns

**B** The term "the Customer" refers to the person, firm, partnership, company, corporate entity and guarantor with whom the Company enters into a contract to sell Goods and/or services and including that person's successors and permitted assigns.

**C** The term "Goods" includes all items purchased from the Company by the Customer (as detailed on each invoice issued to the Customer), and includes any services forming part of the goods supplied.

**1 PRICE**

1.1 The price shall be increased by:

- (a) The amount of any GST and other taxes and duties which may be applicable; and
- (b) The amount of any increase in the cost of any items (including any change in currency exchange rate) affecting the cost of supply, production and/or delivery of the Goods prior to the date of delivery.

1.2 A contract is created and the Customer is bound to pay the price when the Company accepts the Customer's order. Subject to clause 3.5, each accepted order constitutes a separate contract. A quotation does not create a binding contract until the Customer places an order, which is accepted by the Company.

1.3 Alterations to any price list shall be effective from the date specified by the Company and shall apply to all orders accepted by the Company on or after that date.

**2 PAYMENT**

2.1 The Customer agrees to make full payment for the goods on or before the 20<sup>th</sup> of the month following uplifting, delivery or availability of delivery. This payment is free of any counterclaim, set-off, deduction or other claim whatsoever.

2.2 The Customer's failure to pay any account owed to the Company by the due date shall be a breach of the terms and conditions of sale. The Company may, without prejudice to any other rights or remedies it may have, charge default cost at the rate of 2.5% per month or at a lesser rate if deemed appropriate, compounding until payment in full is received. Levying and collection of any default cost shall not extend the due date of payment.

2.3 Trade discounts may be withdrawn to a customer's account if not paid by the due date, at the Company's sole discretion.

2.4 The Customer shall pay or reimburse the Company for all costs and/or expenses incurred by the Company in instructing a solicitor and/or debt-collecting agency to recover any amount overdue for payment. Such costs and expenses shall bear default cost from the date upon which they are incurred by the Company up to and including the date upon which the Customer pays or reimburses the Company at the default rate stipulated in clause 2.2 above.

2.5 The Company has the right to allocate any payment made by or on behalf of the Customer to the account as it sees fit and the Customer waives any right to receive notification of that allocation.

2.6 The Company may impose a credit limit, and alter the credit limit without notice. Where this credit limit is exceeded, the Company may refuse to supply Goods to the Customer.

**3 DELIVERY**

3.1 Delivery will be made to the road entrance of the Customer's site, as indicated to the Company by the Customer. If requested the Company will deliver on to the Customer's site, but in no circumstances will the Company be responsible for any damages that occur beyond the road entrance. The Customer will be responsible for all/any charges that may occur, including towage, and carnage if delivery is requested past the road entrance onto the site.

3.2 Delivery will be deemed to have been made and completed once the Goods are delivered to the address supplied by the Customer, on the date specified by the Customer. The Customer will be responsible for the Goods once delivery has been made.

3.3 In the event that the Company agrees to sell "ex yard", delivery will be deemed to be completed when the Company has placed the Goods at the disposal of the Customer or delivered the Goods into the possession of the freight Company transporting the Goods on behalf of the Customer.

3.4 The Customer, or any of the Customer's employee's, whose endorsement of the bill of lading, shall constitute acknowledgement that the Goods were delivered in sound and merchantable condition.

3.5 The Company may deliver the Goods by instalment. Each instalment is to be treated as a separate contract subject to these terms. Failure to deliver all Goods ordered shall not entitle the Customer to cancel any contract relating to the Goods.

**4 TERMS**

These terms and any terms set out by the Company shall be included as terms in any contract resulting between the parties and in the case of any conflict, arising between these terms or the terms of the Customer's order then these terms and conditions shall prevail.

**5 ORDERS**

The placement of an order, for all purposes will be acceptance of these conditions.

**6 GOVERNING LAWS**

The laws of New Zealand govern this agreement

**7 CONTINUING SECURITY**

This security shall be deemed a running and continuing security irrespective of any sums, which may from time to time be paid to the credit of any account of the Company, and not withstanding that any such account may appear at any time to be in credit. Notwithstanding any settlement of account or any other matter or thing whatsoever this security shall remain in force and effect and shall not be deemed to have been released or discharged or in any way vacated until a memorandum of satisfaction shall have been executed by the Company

**8 TRANSFER OF TITLE AND RISK**

8.1 The Customer and the Company agree as follows:

(a) The Company has legal and equitable title to all Goods until payment in cash or cleared funds is available to the Customer for the Goods. All Goods supplied by the Company to the Customer are to be held by the Customer as bailee to be sold by it as agent for and on behalf of the Company, and the Customer shall store the Goods supplied separately so that they should at all times be identifiable as the Company's Goods.

(b) The Goods will at all times, from the time of delivery be at the Customer's risk and the Customer undertakes to secure appropriate insurance for the Goods at its own expense.

(c) Until payment for the Goods in cash or cleared funds is available to the Company, the Customer acknowledges and agrees as follows.

(i) The Customer shall ensure our Goods are easily identifiable as the Companies or by an identification mark agreed between the Customer and the Company.

(ii) If Goods are used and become part of a product, or are subject to change in their character in any way whatsoever, then title will exist in the reconstituted product.

(iii) The Customer hereby irrevocably gives the Company, its agents and servants leave and licence without the necessity of giving any notice to enter on and into premises occupied by the Customer. To search for and remove any of the Goods supplied to the Customer, or in which the Company has title, without in any way being liable to the Customer or any person or supplier claiming through the Customer, and if the Goods are wholly or partially attached to or incorporated in any other goods. The Company may, where practical, disconnect or sever in any way whatsoever as may be necessary to remove the Goods.

(iv) NOTWITHSTANDING that the Company retains title to the Goods, the Customer is hereby authorised to sell the Goods in the ordinary course of business. The Company reserves the right to revoke the Customer's authorisation to sell the Goods by written notice at any time the Company deems the credit of the Customer to be unsatisfactory or the Customer is in default of this agreement.

(d) Where the Company's title has not passed to the Customer for Goods, or the Customer pursuant to the authority granted in clause 8(c)(iv) subsequently sells Company's Goods. Any book debt created upon the sale of such Goods and any proceeds when received by the Customer, is to be held upon trust by the Customer for the Company.

(e) Any proceeds of sale so received by the Customer is to be held in a separate bank account, and shall first be applied towards the satisfaction of all indebtedness of the Customer to the Company and thereafter shall be retained by the Customer. The Company hereby authorises the Customer to deal with any such proceeds of sale as if such proceeds of sale were the absolute property of the Customer. Such authority may be revoked by written notice from the Company at any time or if the Company deems the credit of the Customer to be unsatisfactory, or if the Customer is in default of this agreement.

(f) Where the Customer is declared bankrupt or enters into any composition or arrangement with its creditors, or a resolution is passed or a petition is filed for the winding up of the Customer or a receiver is appointed in respect of all or any assets of the Customer the authority pursuant to clause 8.1(d) is revoked.

**9 SECURITY**

9.1 Notwithstanding the Company's retention of title to the goods until the Customer makes payment in full, for all amounts owed to the Company, the Customer and/or Guarantor agrees as follows:

(a) If the Customer and/or Guarantor fail to pay any part of any account when the same is due, then without prejudice to any other remedy herein provided or by law allowed, the Customer and/or Guarantor hereby agree to give and grant a registration of a mortgage over any and all of the Customer and/or Guarantor's properties.

(b) Without prejudice to any other mortgages our mortgage is to secure to the Company the balance of the amount owed, together with any default cost as provided in clause 2.2.

(c) Our mortgage is payable on demand and is to be in a form usually employed by the solicitor to the Company. The Customer and/or Guarantor hereby agrees to give and execute such mortgage, and to pay all costs and disbursements for taking such security, such cost to be on a solicitor-client basis and including any other costs incurred.

(d) The Company shall be entitled to execute such mortgage on behalf of the Customer and/or Guarantor. For the execution of such mortgage the Customer and/or Guarantor hereby irrevocable appoints the Company as the attorney of the Customer and/or Guarantor for the purpose of the Company exercising its rights under this clause.

**10 VARIATION OF CONDITIONS**

The Company may vary the Terms and Conditions of Sale at any time.

**11 NON-EXISTENT ENTITIES**

If in a credit application, you indicate that the Customer is a legal entity and that legal entity does not exist. The person signing the credit application form shall be personally liable and, if more than one, jointly and severally liable to the Company for all amounts payable from time to time to the Company in relation to any supply contract.

**12 STOP CREDIT**

The Company shall retain the right to withdraw, without notice, at any time any credit facility or any supply or promises to supply Goods to the Customer.

**13 ASSIGNMENT**

The Company is entitled at any time to assign to any other person all or part of the debt owing by the Customer to the Company.



**14 RETURN GOODS POLICY**

14.1 A credit for returned Goods may be available if made in writing within seven (7) days of delivery and to the store of purchase.

14.2 Goods incorrectly supplied by the Company may be available for return at the Company's expense and the Customer may receive a credit in full provided:

(a) Goods for return are in the original condition as supplied and returned, if able, to the store of purchased;

(b) The Customer is to inform the Company of the error within seven (7) days of original delivery.

(c) No handling/return fee will apply when it is the Company's error.

14.3 Goods incorrectly ordered or accepted by the Customer may be available for return to the Company within seven (7) days of original supply provided:

(a) Goods need to be in the original condition as supplied

(b) Where Goods for return are within one month from delivery the Company will charge a 10% handling/return fee. Where goods are older than a month the credit acceptance and the handling/return fee is at the discretion of the Company.

(c) The Company will charge freight for collection of Goods from the Customer's site.

14.4 Goods for returned which are over 1 month from delivery may not be accepted for return. If left the Customer is responsible for collection and removal within seven (7) days otherwise they may be dumped at the Customers cost.

14.5 The Company will not accept timber for return when we sold it cut to length and is shorter than 2.7 meters in length.

14.6 When goods for return are not our standard stock item, (i.e. brought in goods) we will only credit upon receipt of the third party's credit. Our credit will reflect any deductions that the third party deduct and our handling/return fee as applicable.

**15 CLAIMS**

15.1 Goods sold or supplied are subject to all conditions, warranties and limitations implied by law, PROVIDED HOWEVER that the extent of the Company's liabilities shall be limited to replacement of faulty goods only.

15.2 The Customer expressly agreed that the Company is not to be liable for any damage consequential on or resulting from any Goods found defective or in any way unsuitable.

15.3 When supplying Goods outside the Company's general range and/or manufactured specifically to the Customer's specifications or other requirements the Company reserve the right to delivery up to 10% over or under the quantities so ordered, at the cost to the Customer.

15.4 The Company will not be liable for any claims or damages arising from any Goods supplied when there use is other than for the purpose intended or designed.

**16 DEFAULT**

The Customer shall be in default of this agreement if any of the following events occur but default is not limited to these events:

If the Customer has lied or has not been completely honest in its words and dealings with the Company, either at the beginning or during the course of the agreement, and especially in the credit application papers

If the Customer fails to make payment to the Company on time and in full;

If the Customer fails to honour any other obligations it owes to the Company on time and completely;

If the Customer fails to keep all the promises it has made or fails to faithfully perform any of the terms and conditions of this agreement or of any note or other paper it may have signed in connection with this agreement;

If the Customer fails to properly care for the Goods or use or allow them to be used in any manner that might cause the Company to worry about their continued use or value;

If the Customer allows the Goods to become attached or levied on in any way;

If the Customer's financial condition changes to the point that the Company has cause to worry about whether it will be able to pay off its obligations to the Company on time and in full;

If the Customer allows the insurance on the Goods to expire or to be cancelled

If the Customer becomes insolvent or goes bankrupt

If the Customer dies or becomes incompetent

If the Customer enters into any composition or arrangement with its creditors

If the Customer is a company which has passed a resolution or filed petition for the winding up of the Customer

If a receiver is appointed in respect of all or any assets of the Customer

**17 REMEDIES IN RESPECT OF DEFAULT**

17.1 If the Customer is in default, the remedies provided for in this agreement shall apply, as well as all other remedies at common law or otherwise available to the Company. The Customer shall be liable for any losses, costs, expenses and liabilities incurred by the Company in exercising its remedies and the Customer hereby fully indemnifies the Company in respect of any such losses, costs, expenses and liabilities.

17.2 All costs and expenses incurred by the Company in exercising its rights under this Agreement and in particular the recovery of any amount due and owing shall be paid for by the Customer/Guarantor, and costs to be paid on a solicitor-client basis.

**18 PRECUT and TRUSS**

All beams are to be propped while exposed to weather. The Customer shall require the builder to read pre-cuts plans in conjunction with architectural plans and consents, and to check all trim sizes and braces on site before enclosing. Any claims for remedial work MUST BE ADVISED to the Company within 7 days of delivery or before enclosing whichever is earlier. The Company will not accept any charges for remedial unless a written remedial works sheet has been filled in and signed by the Customer or builder on their behalf and the Company's representative, a copy to accompany any invoicing.

**19 INDEMNITY**

If the Customer makes default in the payment of monies owed to the Company or any part on the day on which they are due and ought to be paid, then the Customer will indemnify and hold harmless the Company from and against all losses, claims and expenses arising from the non-payment on the due date of such sums. All additional losses, costs, claims and expenses shall be payable upon demand.

**20 PERSONAL PROPERTY SECURITY ACT 1999 ("PPSA")**

20.1 Interpretation – all section references in this clause shall mean the relevant clause in the PPSA.

20.2 Security: Upon consenting to these terms or by accepting supply from us, you acknowledge and agree that:

(a) You grant a security interest (by virtue of our retention of title clause) to us in all present Goods supplied by us to you (if any) and all after acquired Goods supplied by us to you (or for your account).

(b) You will not allow any Goods to become an accession to any property that is not subject to a security interest granted pursuant to these terms.

(c) You will ensure nothing is done or omitted to be done that might adversely affect any security interest in the Goods granted in our favour.

20.3 Financing Statement: You acknowledge, agree and undertake (as the case maybe) to:

(a) Sign any further documents and/or provide any further information (which information you warrant to be complete accurate and up to date in all respects) which we may reasonably require to register a financing statement or financing change statement on the Personal Property Securities Register.

(b) Irrevocably, appoint us your attorney to do anything, which you agree to do under this agreement and anything, which the attorney thinks desirable to protect the Company's interest under this agreement, and you ratify anything done by the attorney under this clause.

(c) Not, register a change demand without our prior written consent, which may be given or withheld at our absolute discretion.

(d) You will upon demand, meet our costs:

(i) In relation to registering a finance statement or financing change statement, or releasing any financing statement on the Personal Property Securities register:

(ii) Enforcing our security interest including our legal costs on a solicitor client basis:

(e) Give us not less than fourteen (14) days prior written notice of any proposed change in your name, and/or any other change in your details or otherwise (including but not limited to a change in your place of incorporation, address, location, nature of business, ownership, facsimile or phone number, or business practice):

20.4 Waiver and Contract Out – To the extent permitted by law, you and us agree to contract out of:

(a) Section 114 (1) (a), 133, 134 and 148 of the PPSA: and

(b) The Buyer's rights referred to in sections 107(a) to (i) of the PPSA

**21 FORCE MAJEURE**

21.1 The Company shall not be liable for damages or loss or otherwise caused by:

(a) Delay or non-delivery of any goods occasioned by matters beyond its control including the default of any supplier or any act of Government, force majeure, stoppage of labour, strikes, riots, civil commotions from any cause or loss or damages caused by perils usually covered by insurance. If by any of these causes delivery of Goods in accordance with a supply contract is not possible, the Company may terminate the supply contract and the Customer shall not have any claim against the Company.

(b) Where colour matching or colourfastness is required as part of the Goods any discrepancy does not entitle the Customer to claim against the Company

**22 CONSUMER GUARANTEES ACT 1993**

22.1 Nothing in these terms and conditions of sale excludes, limits, restricts or is intended to derogate from any right or remedy which you may have pursuant to the Consumer Guarantees Act 1993 ("the CGA"), if you are a consumer as defined in the CGA who requests goods and services for personal use. HOWEVER, the guarantees contained within the CGA are excluded when you acquire goods or services from the Company for the purposes of a business.

22.2 If you on sell the goods to a third party, you agree:

(a) Where permitted by law, to contract out of the CGA; and

(b) To neither give or make any assertion or representation in relation to our goods without our prior written approval nor hold yourself out to be our agent

(c) To indemnify us for any losses incurred due to third party claims against us as Manufacturer/Importer

**23 CONSTRUCTION CONTRACTS**

In the event that any sale by the Company is of a product that means the supply is a "construction contract" within the meaning of the Construction Contracts Act 2002 ("CCA"). Where it is considered that the CCA applies to this contract or any sale under it, then there shall be no progress payments and the goods shall be paid for in one lump sum on due date.

**24 USE OF INFORMATION UNDER THE PRIVACY ACT 1993 AND PRIVACY CODE 2004**

The Customer and any Guarantor agree that any information about them provided at any time to the Company may be used by the Company for any purpose connected with its business including (but not limited to) direct marketing, debt collection and credit reporting or assessment. The Company is authorised to provide such information to any external agency or party for credit information and assessment purposes and that agency or party is hereby authorised to use and continue to use such information as part of their business services. The Company and the external agency or party may retain and/or use such information for as long as they see fit

