

Visual Technologies - Terms of Trade

1 General

- 1.1 These Terms of Trade apply to all transactions between the Customer and Visual Technologies relating to the provision of Goods and/or Services, including all quotations, contracts and variations.
- 1.2 These Terms of Trade take precedence over Terms of Trade contained in any document of the Customer or elsewhere.
- 1.3 The variation or waiver of a provision of this agreement or a party's consent to a departure from a provision by another party will be ineffective unless in writing executed by the parties.
- 1.4 Either party may amend its relevant details in a Quote, by notice in writing to the other party.
- 1.5 Visual Technologies may amend any details in a Quote by notice in writing to the Customer. Such amended details shall supersede any relevant prior detail in dealings between the parties thereafter.

2 Quotes

- 2.1 Visual Technologies may provide the Customer with a Quote containing a description of the Goods and/or Services required to be provided to fulfil the Customer's Order, an estimate of the Supplier's charges for the performance of the required work and an estimate of the time frame for the performance of the work. Any Quote issued by Visual Technologies will be valid for a period of thirty (30) days from the date of issue.
- 2.2 Unless otherwise expressly agreed in writing, a quote does not include
 - (i) delivery and/or installation of the Goods.
 - (ii) Sales tax, GST and any other taxes or duties payable on the goods
- 2.3 Quotes are based upon the cost of materials available at the time of preparation of the Quote and assume the timely supply by the Customer of necessary material and instructions to Visual Technologies.
- 2.4 Following provision of a Quote to the Customer, Visual Technologies is not obliged to commence work until the Quote has been accepted by the Customer by completing an Order form and returning the form to Visual Technologies. Subject to 2.6, any time frame for completion of work provided by Visual Technologies will not commence until a completed Order form has been received by Visual Technologies.
- 2.5 Visual Technologies reserves the right to amend any Quote before the Order has been completed to take into account any rise or fall in the cost of completing the Order and Visual Technologies will notify the Customer of such amendment as soon as practicable thereafter. Upon Visual Technologies giving the Customer notification of such amendment, such amended Quote will be the estimate or Quote for the purposes of these Terms of Trade.
- 2.6 An indication in a Quote of the time frame for the provision of the Goods and/or Services is an estimate only and is not a fixed time frame. Subject to any obligations in respect of consumer guarantees under the *Australian Consumer Law*, this estimate is non-binding upon Visual Technologies.

3 Orders

- 3.1 Every Order by the Customer for the provision of Goods and/or Services must be submitted in writing on Visual Technologies standard Order form (unless otherwise agreed).
- 3.2 An Order will not be deemed by Visual Technologies to have been placed by the Customer unless the Order clearly identifies the Goods and/or Services ordered and Visual Technologies Quote. Any costs incurred by the Visual Technologies in reliance on incorrect or inadequate information may result in the imposition of an Additional Charge.
- 3.3 Orders must be signed by an authorised representative of the Customer and must specify the required date of delivery.
- 3.4 Placement of an Order by the Customer signifies acceptance by the Customer of these Terms of Trade and the most recent Quote.
- 3.5 Visual Technologies may in its absolute discretion refuse to provide Goods and/or Services where:
 - (i) Goods are unavailable for any reason whatsoever;
 - (ii) credit limits cannot be agreed upon or have been exceeded; or
 - (iii) payment for Goods and/or Services previously provided to the Customer or any related corporation of the Customer or to any other party who is, in the reasonable opinion of Visual Technologies, associated with the Customer under the same or another supply contract, has not been received by Visual Technologies.
- 3.6 An Order cannot be cancelled unless the prior written consent of Visual Technologies is obtained. Where an Order is cancelled, the Customer indemnifies Visual Technologies against any Losses incurred by Visual Technologies as a result of the cancellation, including, but not limited to loss of profit from other orders foregone as a result of the scheduling of the Order which is subsequently cancelled.
- 3.7 Where council approval is required for the installation of signage and the Customer does not produce evidence of such approval, the Customer will be liable for the production of the sign, but installation will not proceed until evidence of such approval is provided by the Customer

4 Expedited Delivery

- 4.1 Customer acknowledges that a requirement for urgent delivery increases the likelihood of defects. Visual Technologies will use reasonable efforts to avoid defects but will not be liable for defects arising because of urgent delivery.
- 4.2 The price will be increased to cover overtime work or other additional costs incurred as a result of any for urgent delivery.

5 Outside Work

- 5.1 If Visual Technologies must obtain goods and/or services not normally stocked or supplied by Visual Technologies from a third party in order to carry out the customer's instructions:
- a) Visual Technologies acquires these goods and/or services as agent for the customer and not as a principal. It has no liability to the customer in relation to the supply of those goods and/or services. Any claim by the customer in relation to the supply of those goods and/or services must be made directly against the third-party supplier.
 - b) The customer must pay for such goods and/or services.
 - c) Any such goods obtained on the basis that title in those goods passes to Visual Technologies when the goods are incorporated into the work done by Visual Technologies.

6 Payment

- 6.1 Once the work is completed Visual Technologies will invoice the customer for the quoted price plus any additional charges referred in section 3
- 6.2 Visual Technologies may at its option charge interest at the interest rate fixed under section 2 of the Penalty Interest Rates Act 1983 (Vic) on amounts not paid within any agreed credit arrangements, calculated daily from the date any such amount should have been paid and until the date of payment.
- 6.3 If payments owed by customers exceed 60 days past their terms, Visual Technologies will pass collection of this debt to a debt collection agency where extra charges will be incurred by the customer.
- 6.4 All new customers are required to pay a 50% deposit on the total quoted cost, with the balance due on the day completion of works. Subsequent works will be COD, any credit arrangements will require an Account Application form to be completed and approved by Visual Technologies.

7 Terms

- 7.1 Account payment terms are strictly 30 days from the date of invoice. If these terms have not been met, Visual Technologies reserves the right to revoke the account and pursue settlement.

8 Warranties and Undertakings

- 8.1 Unless expressly set out herein, all implied warranties and conditions in relation to supply by Visual Technologies are expressly excluded (unless such warranties cannot at law be excluded).

9 Risk

- 9.1 Goods supplied by Visual Technologies, are at the risk of Visual Technologies until such point they leave Visual Technologies' premises regardless of Customer arranged freight, or Visual Technologies arranged freight on behalf of the customer of said goods
- 9.2 Visual Technologies shall not be liable for insurance, freight, or loss or damage to goods in transit, incurred during delivery.

10 Liability

- 10.1 To the fullest extent permitted by law, except as provided herein, Visual Technologies shall not be liable to the customer in contract or tort for any loss or damage or for consequential loss or damage of any kind arising out of the supply of the goods and/or services, or arising out of Visual Technologies negligence, or in any way whatsoever.
- 10.2 Visual Technologies acknowledges liability for implied warranties under Trades Practices Act 1974, (the Act) provided that liability for breach of a condition or warranty implied by Division 2 of Part V of the Act (other section 69) is hereby limited to:
- (1) In the case of goods, any one or more of the following:
 - (a) The replacement of the goods or the supply of equivalent goods;
 - (b) The repair of the goods;
 - (c) The payment of the cost of replacing the goods or of acquiring equivalent goods;
 - (d) The payment of the cost of having the goods repaired; or
 - (2) In the case of services:
 - (a) The supplying of the services again; or
 - (b) The payment of the cost of having the services supplied again

11 Acceptance of Goods

If the Customer fails to advise Visual Technologies in writing of any fault in Goods or failure of Goods to accord with the Customer's Order within 48 hours of delivery, the Customer is deemed to have accepted the Goods and to have accepted that the Goods are not faulty and accord with the Customer's Order. Nothing in this clause affects the Customer's rights for any alleged failure of a guarantee under the Australian Consumer Law.

12 Retention of Title and Passing of Risk

- 12.1 Risk in Goods passes to the Customer immediately upon goods leaving Visual Technologies' premises or being made available for collection by Visual Technologies.
- 12.2 Subject to clause 11, title in Goods supplied to the Customer pursuant to these Terms of Trade does not pass to the Customer until all moneys (including moneys owing in respect of other transactions between Visual Technologies and the Customer) due and payable to Visual Technologies by the Customer have been fully paid.
- 12.3 Where Goods or Services are supplied by Visual Technologies to the Customer without payment in full of all moneys payable in respect of the Goods or Services provided by Visual Technologies in respect of those Goods, the Customer:
- 1) is a bailee of the Goods until title in them passes to the Customer;
 - 2) acknowledges that Visual Technologies may register its interests in the Goods under the *Personal Property Securities Act 2009* (Cth) (**PPSA**);
 - 3) must be able upon demand by Visual Technologies to separate and identify as belonging to Visual Technologies Goods supplied by Visual Technologies from other goods which are held by the Customer;
 - 4) must not allow any person to have or acquire any Security Interest (as this term is defined in the PPSA) in the Goods;
 - 5) must pay to Visual Technologies on demand the amount of any loss suffered or incurred by Visual Technologies arising out of or in connection with any loss or damage to the Goods whilst in the Customer's care, or any copying or replicating of the Goods;
 - 6) agrees that Visual Technologies may repossess the Goods if payment is not made within 14 days (or such longer time as the Supplier may, in its complete discretion, approve in writing) of the supply of the Goods; and
 - 7) the Customer grants an irrevocable licence to Visual Technologies or its agent to enter the Customer's premises in order to recover possession of Goods pursuant to this clause. The Customer indemnifies Visual Technologies in respect of any damage to property or personal injury which occurs as a result of any negligent or wrongful act by Visual Technologies or its agent in entering the Customer's premises or recovering possession of the Goods.
- 12.4 Where Goods are supplied by Visual Technologies to the Customer without payment in full of all moneys payable in respect of the Goods and any Services provided by Visual Technologies in respect of those Goods, and the Customer makes a new object from the Goods, whether finished or not, or the Customer mixes the Goods with other goods or the Goods become part of other goods ("new goods"), the Customer agrees with Visual Technologies that the ownership of the new goods immediately passes to Visual Technologies. The Customer will hold the new goods on trust for Visual Technologies until payment of all sums owing to Visual Technologies whether under this contract or any other contract have been made and Visual Technologies may require the Customer to store the new goods in a manner that clearly shows the ownership of Visual Technologies.
- 12.5 For the avoidance of doubt, under clause 10.4, the ownership of the new goods passes to Visual Technologies at the beginning of the operation or event by which the Goods are converted into, are mixed with or become part of other goods.
- 12.6 Notwithstanding sub-clause 10.3 the Customer may transfer, sell or dispose of Goods, including new goods, to a third party in the ordinary course of business provided that:
- 1) where the Customer is paid by a third party in respect of Goods including new goods, the Customer shall hold the whole of the proceeds of sale less Goods and Services Tax on trust Visual Technologies - in a separate account - until all amounts owned by the Customer to Visual Technologies have been paid; or
 - 2) where the Customer is not paid by a third party, the Customer agrees to assign all its rights against such third party to Visual Technologies upon Visual Technologies giving the Customer notice in writing to that effect and for the purpose of giving effect to such assignment the Customer irrevocably appoints the Supplier as its attorney.
- 12.7 Where Goods are supplied by Visual Technologies to the Customer without payment in full of all moneys payable in respect of the Goods and any Services provided by Visual Technologies in respect of those Goods, the Customer acknowledges that Visual Technologies has a right to register and perfect (and where relevant enforce) a personal property security interest under the PPSA.

13 Intellectual Property Rights

- 13.1 The Customer warrants that it owns all Intellectual Property Rights pertaining to its Order for Goods and/or Services or has a licence to authorise Visual Technologies to reproduce all artistic and literary works supplied by the Customer to Visual Technologies for the purposes of the Order, and the Customer expressly authorises Visual Technologies to reproduce all and any of such works for the purposes contemplated by these Terms of Trade. Further, the Customer indemnifies and agrees to keep indemnified Visual Technologies against all Losses incurred by Visual Technologies in relation to or in any way directly or indirectly connected with any breach of copyright or any other Intellectual Property Rights in relation to such literary and artistic works supplied.
- 13.2 Unless specifically agreed in writing between Visual Technologies and the Customer, all Intellectual Property Rights in any works created by Visual Technologies on behalf of the Customer vest in and remain the property of Visual Technologies.
- 13.3 Subject to clause 11.2 and payment of all invoices due in respect of the Goods and/or Services, Visual Technologies grants to the Customer a perpetual, non-exclusive licence to use the works created or produced by Visual Technologies in connection with the provision of Goods and/or Services under these Terms of Trade.

14 Agency and Assignment

- 14.1 The Customer agrees that Visual Technologies may at any time appoint or engage an agent to perform an obligation of Visual Technologies arising out of or pursuant to these Terms of Trade.
- 14.2 Visual Technologies shall have the right to assign and transfer to any person or company all or any of its title, estate, interest, benefit, rights, duties and obligations arising in, under or from these Terms of Trade provided that the assignee agrees to assume any duties and obligations of Visual Technologies so assigned and transferred.
- 14.3 The Customer is not to assign, or purport to assign, any of its obligations or rights under these Terms of Trade without the prior written consent of Visual Technologies.

15 Default by Customer

- 15.1 Each of the following occurrences constitutes an event of default:
- 1) the Customer breaches or is alleged to have breached these Terms of Trade for any reason (including, but not limited to, defaulting on any payment due under these Terms of Trade);
 - 2) the Customer, being a natural person, commits an act of bankruptcy;
 - 3) the Customer, being a corporation, is subject to:
 - (i) a petition being presented, an order being made, or a meeting being called to consider a resolution for the Customer to be wound up, deregistered or dissolved;
 - (ii) a receiver, receiver and manager or an administrator under Part 5.3A of the *Corporations Act 2001* being appointed to all or any part of the Customer's property and undertaking;
 - (iii) the entering of a scheme of arrangement (other than for the purpose of restructuring); or
 - 4) the Customer purports to assign its rights under these Terms of Trade without Visual Technologies written consent;
 - 5) any assignment for the benefit of creditors; or
 - 6) the Customer ceases or threatens to cease conduct of its business in the normal manner.
- 15.2 Where an event of default occurs, except where payment in full has been received by Visual Technologies, Visual Technologies may:
- 1) refuse to deliver Goods or provide further Services;
 - 2) pursuant to Clause 10, repossess and re-sell any Goods delivered to the Customer, the payment for which has not been received; or
 - 3) retain (where applicable) all moneys paid an account of Goods and/or Services or otherwise.
- 15.3 In addition to any action permitted to be taken by Visual Technologies under 13.2 above, upon the occurrence of an event of default:
- 1) all invoices will become immediately due and payable; and
 - 2) Visual Technologies may terminate all contracts and credit arrangements (if any) with the Customer.

16 Termination

- 16.1 In addition to the express rights of termination provided in these Terms of Trade, Visual Technologies may terminate the agreement between the parties upon the occurrence of any of the following:
- 1) an event of default pursuant to clause 13 forthwith (without notice required); or
 - 2) in any other circumstances, upon one party giving 30 days written notice to the other party.

17 Exclusions and Limitation of Liability

- 17.1 The Customer expressly agrees that use of the Goods and Services is at the Customer's risk. To the full extent allowed by law, Visual Technologies liability for breach of any term implied into these Terms of Trade by any law is excluded.
- 17.2 Visual Technologies gives no warranty in relation to the Service provided or supplied. Under no circumstances is Visual Technologies or any of its suppliers liable or responsible in any way to the Customer or any other person for any loss, damages, costs, expenses or other claims (including consequential damages and loss of profits or loss of revenues), as a result, direct or indirect of any defect, deficiency or discrepancy in the Goods or Services including in their form, content and timeliness of deliveries, failure of performance, error, omission, defect, including, without limitation, for and in relation to any of the following:
- (a) any Goods or Services supplied to the Customer;
 - (b) any delay in supply of the Goods or Services; or
 - (c) any failure to supply the Goods or Services.
- 17.3 To the fullest extent permissible at law, Visual Technologies is not liable for any direct, indirect, punitive, incidental, special, consequential damages or any damages whatsoever including, without limitation, damages for loss of use, data or profits, arising out of or in any way connected with the provision of or failure to provide Goods or Services, or otherwise arising out of the provision of Goods or the Services, whether based on Terms of Trade, negligence, strict liability or otherwise, even if Visual Technologies has been advised of the possibility of damages.
- 17.4 The *Australian Consumer Law* may give to the Customer certain guarantees. Where liability for breach of any such guarantee can be limited, Visual Technologies liability (if any) arising from any breach of those guarantees is limited with respect to the supply of Goods, to the replacement or repair of the Goods or the costs of resupply or replacement of the Goods or with respect to Services to the supply of Services again or cost of re-supplying the Services again.
- 17.5 The Customer acknowledges that the Goods and/or Services are not for personal, domestic or household purposes.
- 17.6 Any advice, recommendation, information, assistance or service given by Visual Technologies in relation to Goods and/or Services is given in good faith and is believed to be accurate, appropriate and reliable at the time it is given, but is provided without any warranty or accuracy, appropriateness or reliability. Visual Technologies does not accept any liability or responsibility for any Loss suffered as a result of the Customer's reliance on such advice, recommendation, information, assistance or service.

18 Indemnity

- 18.1 The Customer agrees to indemnify and keep indemnified Visual Technologies, its servants and agents in respect of any claim or demand made or action commenced by any person (including, but not limited to, the Customer) against Visual Technologies or, for which Visual Technologies is liable, in connection with any Loss arising from or incidental to the provision of Goods and/or Services or the subject matter of this agreement including, but not limited to any legal costs incurred by Visual Technologies in relation to meeting any claim or demand or any party/party legal casts for which the Supplier is liable in connection with any such claim or demand.
- 18.2 This provision will remain in force after the termination of this agreement.

19 Force Majeure

- 19.1 Should circumstances beyond the Supplier's control prevent or hinder its provision of the Goods and/or Services, the Supplier will be free from any obligation to provide the Goods and/or Services while such circumstances continue.
- 19.2 For as long as the circumstances beyond Visual Technologies control exist, Visual Technologies may elect to terminate this agreement or keep the agreement on foot until such circumstances have ceased.
- 19.3 Circumstances beyond Visual Technologies control include but are not limited to, illness or injury to Visual Technologies personnel (including subcontractors) or their immediate family, unavailability of materials or components, strikes, lockouts, riots, natural disasters, fire, war, acts of God, Government decrees, proclamations or orders, transport difficulties and failures or malfunctions of computers or other information technology systems.

20 Governing Jurisdiction

These Terms of Trade are governed by the laws of the state where Visual Technologies registered office is situated and each party irrevocably submits to the non-exclusive jurisdiction of the courts of such state.

21 Whole Agreement

- 21.1 These Terms of Trade and any Quotes and written variations agreed to in writing by Visual Technologies represent the whole agreement between the parties relating to the subject matter of these terms.
- 21.2 These Terms of Trade supersede all oral and written negotiations and communications by and on behalf of either of the parties.
- 21.3 In entering into this agreement, the Customer has not relied on any warranty, representation or statement, whether oral or written, made by Visual Technologies or any of its employees or agents relating to or in connection with the subject matter of this agreement.

22 Void, Voidable or Unenforceable Provisions

22.1 If any provision of this agreement at any time is or becomes void, voidable or unenforceable, the remaining provisions of this agreement will continue to have full force and effect.

23 No Waiver

A party's failure or delay to exercise a power or right does not operate as a waiver of that power or right.

24 Notices

24.1 A notice or other communication required or permitted to be given by one party to another must be in writing to the address shown on a Quote (or as varied pursuant to this clause) and delivered personally, sent by pre-paid mail to the address of the addressee specified in the relevant Quote; sent by facsimile transmission to the facsimile number of the addressee specified the relevant Quote, with acknowledgment of receipt from the facsimile machine of the addressee or sent by e-mail to the e-mail address of the addressee specified in the relevant Quote with acknowledgment of delivery.

24.2 A notice or other communication is taken to have been given (unless otherwise proved) if mailed, on the second Business Day after posting; or if sent by facsimile or e-mail before 4 pm one Business Day at the place of receipt, on the day it is sent and otherwise on the next Business Day at the place of receipt.

24.3 A party may only change its postal or email address or fax number for service by giving notice of that change in writing to the other party.

25 Interpretation

25.1 In these Terms of Trade:

- 1) **Additional Charge(s)** shall mean those detailed in Clause 8.
- 2) **Business Day** means a day that is not a Saturday, Sunday or public holiday in the state where the Services are principally being carried out and Goods provided.
- 3) **Customer** means a person or entity entering into an agreement for the supply of Goods and/or Services by the Supplier and includes the Customer's agents and permitted assigns.
- 4) **Goods** means any goods supplied by the Supplier including those supplied in the course of providing the Services.
- 5) **Intellectual Property Rights** means intellectual property rights at any time protected by statute or common law, including copyright, trade marks, patents and registered designs.
- 6) **Loss** includes, but is not limited to, costs (including, but not limited to, party t party legal costs and the Supplier's legal costs), expenses, lost profits, awards of damages, personal injury and property damage.
- 7) **Order** means a purchase order for Goods and/or Services placed by a Customer in accordance with clause 3 and as varied in writing from time to time by the parties.
- 8) **Quote** has the meaning given by clause 2 of this agreement.
- 9) **Services** means the services to be provided by the Supplier to the Customer in accordance with a Quote and these Terms of Trade

25.2 In these Terms of Trade, unless the context otherwise requires:

- 1) a reference to writing includes email and other communication established through Visual Technologies website (if any);
- 2) the singular includes the plural and vice versa;
- 3) a reference to a clause is a reference to a clause of these Terms of Trade;
- 4) a reference to a party to these Terms of Trade or any other document or arrangement includes that party's executors, administrators, successors and permitted assigns;
- 5) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- 6) headings are for ease of reference only and do not affect the meaning or interpretation of these Terms of Trade;
- 7) if the date on which any act, matter or thing is to be done falls on a day which is not a Business Day, that act, matter or thing:
 - (i) if it involves a payment other than a payment which is due on demand must be done on the preceding Business Day; and
 - (ii) in all other cases, must be done on the next Business Day.

26 PPSA

26.1 Terms used in this clause 24 have the same meaning as given to them in the Personal Property Securities Act 2009 (Cth).

26.2 Visual Technologies and the customer acknowledge that a sales transaction constitutes a security agreement and gives rise to a 'purchase money security interest (PMSI) in favour of Visual Technologies over the goods supplied to the customer, as grantor, pursuant to a contract, and over the proceeds (including any sale monies or an account for such monies and insurance monies).

- 26.3 The goods supplied or to be supplied under a contract fall within the PPSA classification of "other goods" acquired by the customer pursuant to these Terms and Conditions.
- 26.4 The customer acknowledges that Visual Technologies, as secured party, is entitled to register its interest in the goods supplied or to be supplied to the customer, as grantor, under a contract on the Personal Property Securities Register (PPSR) as collateral.
- 26.5 The customer waives its rights to the following under the PPSA:
- 1) under section 95 to receive notice of intention to remove an accession;
 - 2) under section 118 to receive notice that Visual Technologies intends to enforce its security interest in accordance with land law;
 - 3) under section 121(4) to receive a notice of enforcement action against liquid assets;
 - 4) under section 129 to receive a notice of disposal of goods by Visual Technologies purchasing the goods;
 - 5) under section 130 to receive a notice to dispose of goods;
 - 6) under section 132(2) to receive a statement of account following disposal of goods;
 - 7) under section 132(4) to receive a statement of account if no disposal of goods for each 6 month period;
 - 8) under section 135 to receive notice of any proposal of Visual Technologies to retain goods;
 - 9) under section 137(2) to object to any proposal of Visual Technologies to retain or dispose of goods;
 - 10) under section 142 to redeem the goods;
 - 11) under section 143 to reinstate the security agreement; and
 - 12) under section 157(1) and 157(3) to receive a notice of any verification statement.
- 26.6 The customer agrees that, to the extent permitted by law, nothing in sections 130 to 143 or the PPSA will apply to these Terms and Conditions.

27 IN CONSIDERATION of Visual Technologies (herein under called "the company" agree to supply products and services on credit to the following Applicant

Customer: **A.B.N.**

The above listed directors/sole traders or partnerships hereby GUARANTEE (jointly and severally in the case of more than one Guarantor) the due and punctual payment of all monies which may now or in the future be or become due and payable to the Company by the Customer under the Company's Terms and Conditions of trading whether arising in any other way on any account whatsoever operated by the Customer with the Company.

AND I/WE DURTHER DECLARE THAT:

1. This Guarantee shall be a continuing guarantee and shall remain in full force and effect and the guarantor shall remain liable hereunder notwithstanding the granting by Company of time, credit or any other indulgence or concession the customer or to the Guarantor or the waiver by the Company of any breach by the Customer of its obligations to the Company or the liquidation of the Customer of the bankruptcy or death of the guarantor or the liability of the Customer ceasing or becoming extinguished for any reason.
2. I/We will make due and punctual payments to the Company upon demand being made by notice of letter given to Guarantor and such demands or notice or letter shall be duly made or given if the same shall be in writing and left at or sent pre-paid post to the address of the guarantor as set out above.
3. The Guarantor shall pay all costs, fees, charges and expenses included legal costs on a solicitor and own client basis incurred by the Company of and incidental to this Guarantee or any matter arising out of or incidental to this Guarantee or the failure to perform by the Guarantor of the covenants herein contained
4. If any of the obligations hereby guaranteed shall not be enforceable against the Customer purported to be primary liable this Guarantee shall be construed as an indemnity and the Guarantor hereby indemnifies the Company in respect of any failure by the Customer to make payment or perform or observe any covenant, obligation, term or conditions of this Guarantee and form and against all losses, damages, costs, charges and expenses of any kind which the Company may incur because of or arising out of the default by the customer under the Company's Terms and Conditions of Trading or howsoever arising.
5. The proper law of this Guarantee shall be the law of the State of Victoria and that any proceedings to be taken by the Company may be taken in the Courts of such State and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Court's of such State

The Guarantor agrees that:

- A. The Company may seek from credit reporting agency a credit report containing personal information about the Guarantor to assess whether to accept the guarantor as a Guarantor for credit applied for or provided to the Customer: and
- B. If the Company approves the Customer's application for credit this agreement shall remain in force until the credit facilities covered by the Customer's application ceases.

AND THE GUARANTOR HEREBY DECLARES: that I/We understand the nature and effect of the within Guarantee and I/We have had the opportunity of obtaining independent legal advice before signing the Guarantee.

DATED the _____ **day of** _____ **20** _____

Guarantor/s (print name)	Signature:	
1. Name:		In the presence of:
2. Name:		Name:
3. Name:		Address:
4. Name:		

X

Witness' full name and address