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TELEPHONE: (03) 5134 5602
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APPLICATION FOR COMMERCIAL CREDIT

Name or
Business name:

Registered Company Name:

ABN:

ACN:

Registered Business Number:

Trading Address:

Postcode

Telephone Number(s)

Business:

Mobile:

Facsimilie:

Private:

Address for Correspondence:

Contact Person:

Position:

Business details

Legal Form of Business: Sole Trader: Partnership: Company:

Other, please specify:

Nature of Business:

Estimated Monthly Purchases:

Bank details

Name: Branch:

Address:

External Accountants/Auditors:

Name:

Address:

Principals or Directors

Name: Name:

Address: Address:

Date of Birth: Date of Birth:

Private telephone no: Private telephone no:

Drivers Licence no: Drivers Licence no:

Details of previous business: Details of previous business:

Trade References (Major Suppliers)

Name: Name:

Address: Address:

Contact: Contact:

Telephone no: Telephone no:

I/We the undersigned acknowledge the below trading terms and conditions:-

TERMS & CONDITIONS OF SALE

1. Interpretation

Unless inconsistent with the context:

"Agreement" shall mean and include the terms and conditions contained herein.

"Company" shall mean and include LIPSKA PTY LTD (ACN 005 530 370) TRADING AS CAPE VIEW HARDWARE & BUILDING SUPPLIES its servants and/or agents and associated entities.

"Customer" means and includes any natural person, company, partnership or other entity which enters into this agreement with the company.

"Goods" means the goods and/or services supplied by the company pursuant to this agreement.

2. Exclusion of inconsistent terms

Any terms and conditions of the customer's order deviating from or inconsistent with these terms and conditions (including any statement by the customer that the customer's terms and conditions shall prevail) are expressly excluded. Subject to clause 16, this agreement constitutes the entire agreement between the parties.

3. Acknowledgment

Acknowledge having read and agree to the terms and conditions of sale of the company included in this agreement and that such terms and conditions will extend to every contract entered into by me with the company and its associated entities.

4. Warrant that the information supplied is true and correct.

5. Authorise the company to obtain a report from a credit reporting agency which contains details of my personal and commercial credit information as permitted under the Privacy Act, as required by the company for the purpose of this application for credit and to assess my application for credit on an ongoing basis and/or to collect overdue payments in respect of the commercial credit provided to me.

6. Authorise the company to obtain a report from trade suppliers as to my credit worthiness

7. Payment

Acknowledge and agree that in the event that the company approves a credit account, the trading terms of the company are strictly 30 days, in that payment is due on or before the last day of the month following the month in which the goods are supplied irrespective of the date upon which any invoice and/or statement is rendered or received by the customer.

8. Credit Facility

Acknowledge that credit facilities may at any time be suspended or withdrawn without notice

9. Interest

Acknowledge and agree that in respect of any amounts as may from time to time be overdue the company may charge interest at a rate 2 per cent greater than the rates applicable from time to time for unsecured overdrafts by the [please specify your banking institution].

.....
Initials of each customer or
representative of each customer

10. Costs and other expenses

Acknowledge and agree to pay all expenses (including commission charged by a collection agency and legal costs calculated on a solicitor/client basis) which the company may incur in the process of recovering any amounts outstanding by the customer to the company.

11. Security

Acknowledge and agree to charge in favour of the company all my estate and interest and any asset or trust asset including any land in which I have an interest or in which I may later acquire an interest during the term of this agreement.

12(a). Ownership of Goods

Acknowledge and agree that the company reserves the following rights in relation to goods supplied to the customer until all monies owed by the customer to the company are fully paid:-

- (i) legal ownership of goods supplied;
- (ii) to enter the customer's premises (or the premises of any associated company or agent where the goods are located) at any time without prior notice to the customer without liability for trespass or any resulting damage and re-take possession of the goods supplied; and
- (iii) to keep or re-sell any goods re-possessed pursuant to (ii) above.

If the goods are re-sold by the company, the company will be entitled to apply such proceeds of sale toward payment of all or part of the monies outstanding to the company. Notwithstanding the provisions above, the company shall be entitled to maintain an action against the customer for the balance of monies outstanding including interest and expenses referred to in clauses 9 and 10 above.

12(b). Acknowledge and agree that the risk of the goods supplied shall pass to the customer upon delivery notwithstanding 12(a).

13. Changes to proprietorship

The customer hereby undertakes to advise the company within 7 days by certified mail of any actual proposed change in:-

- (a) the address of the business and the address at which the goods will be located (if it differs to the business address);
- (b) the trading name of the business;
- (c) the person(s), the directors, the trustee or the partnership conducting the business; and
- (d) the proprietorship of the business in that the business is converted into a trust company or is sold to a trust or company.

The customer further accepts and agrees that where such a change occurs the company will require that a new application for credit facility will be sought and considered and the customer will sign all documents and do all acts and things appropriate for such new application for credit facilities.

14. Proper Law

The contract between the company and the customer shall be governed and construed according to the laws of Victoria and the customer agrees to submit to the jurisdiction of the courts located in the capital city of Victoria.

15. Waiver

The waiver by the company of any breach by the customer of any term of this agreement shall not prevent the subsequent enforcement of the term and shall not be deemed a waiver of any other or subsequent breach.

16. Returns

- 1. The company reserves the right in its complete discretion to refuse to accept any returns whatsoever.
- 2. Goods returned shall be at the customer's expense.
- 3. No credit will be issued for goods returned after 7 days from receipt of goods.

17. Indemnity

The customer shall indemnify and keep indemnified the company from and against all losses, claims, proceedings, damages, costs and expenses in respect of or arising directly or indirectly from:-

- (a) the goods or their use;
- (b) from any advice given to the customer by the company save and except as provided for in clause 16; and
- (c) any breach by the customer of the terms of this agreement.

.....
Initials of each customer or
representative of each customer

18. **Implied Terms**

18.1. Except as required by statute (including the Trade Practices Act 1974), all implied conditions and warranties are hereby excluded. Subject to the extent that such conditions and warranties cannot be excluded under statute (including the Trade Practices Act), the customer's sole and exclusive remedy for any breach of a condition, warranty or undertaking hereunder (whether direct, indirect, special or consequential) shall be limited at the sole discretion of the company to any one of the following:-

- (a) in the case of the goods:-
 - (i) the replacement of goods or supply of equivalent goods; and
 - (ii) the repair of the goods.

18.2. Except as required by statute (including the Trade Practices Act 1974) the company does not accept any liability for any direct, indirect or consequential loss or damage caused to the customer or any other person which arises out of the negligence or carelessness of the company or any of its employees, servants or agents. For the purpose of the foregoing "consequential loss" shall include, but not be limited to, loss of profit or goodwill (or similar financial loss), any payment made or due to any third party and any loss or damage caused by delay in the supply of goods or services.

18.3. Nothing in this agreement shall be read or implied so as to purport to exclude, restrict or modify or have the effect of excluding, restricting or modifying the application in relation to the supply of any goods or services pursuant to this agreement of any other relevant Act which by law cannot be excluded, restricted or modified.

DATED the _____ day of _____, 1999.

SIGNATURES OF COMPANY DIRECTOR(S)/SOLE TRADER(S) PARTNER(S) AS APPLICABLE:

1. (SIGNATURE).....(PRINT NAME).....

2. (SIGNATURE).....(PRINT NAME).....

3. (SIGNATURE).....(PRINT NAME).....

AFFIX COMPANY SEAL:.....

CONFIDENTIAL

GUARANTEE & INDEMNITY

In consideration of LIPSKA PTY LTD (ACN 005 530 370) TRADING AS CAPE VIEW HARDWARE & BUILDING SUPPLIES ("the company") granting credit

to.....

[print name of customer]

as named in the terms and conditions attached, I/we the parties named below as guarantor jointly and severally and unconditionally and irrevocably guarantee to pay on demand any amount which is now or may from time to time become due by the customer to the company on any account and in any manner whatsoever and whether alone or jointly with any other person.

I HEREBY AGREE with the company, its successors and assigns as follows:

1. **TO** guarantee the due payment of all monies owing by the customer whatsoever as a result of any past present or future dealing with the company notwithstanding that I shall not have notice of any neglect or omission on the part of the customer according to the terms agreed on between the customer and the company.
2. **THIS** guarantee is given for valuable consideration and shall be a continuing guarantee and shall be binding on my personal representatives and shall enure for the benefit of the company, its successors and assigns.
3. **ANY** demand notice or document to be served pursuant to this guarantee may be served upon me by delivering the same or posting the same at my address as stated herein.
4. **DURING** the term of the guarantee I agree to charge in favour of the company all my estate and interest in any asset or trust asset including any land in which I now have an interest or in which I may later acquire an interest to secure any debt owed to the company.
5. I shall do all things necessary to authorise the company to make enquiries at any time during the term of the guarantee with any credit reporting agency or my bank to obtain an opinion of my credit worthiness and to disclose any personal information and any other information for the purpose of determining my ability to perform under the terms of this guarantee.
6. I agree to indemnify the company and keep the company indemnified from and against all losses, damages, costs charges and expenses of any kind which the company may incur because of arising out of the failure by the customer to pay any monies which are due and payable to the company or because in or before any liquidation, bankruptcy or insolvency of the customer an amount is paid to the company which the company is subsequently obliged to pay out on the ground that payment of the amount to it was a preference.
7. **THE** obligations of the guarantor are of a continuing nature and can only be discharged by the payment in full to the company of all monies by the customer or by the guarantor and will not be affected by any error, oversight or lenience by the company in enforcing payment or by any time, indulgence or concession given to the customer or by the liquidation, bankruptcy or insolvency of the customer and are enforceable by the company without first taking any steps or proceedings against the customer.
8. **IF** the customer is in liquidation or is bankrupt, the guarantor is not entitled to prove in the liquidation or bankruptcy in competition with the company to diminish any dividend or payment which but for the guarantor's proof the company would be entitled to receive in the liquidation or bankruptcy or to assert any right of subrogation or indemnity in respect of any monies paid by the guarantor to the company hereunder until the company has actually received 100 per cent in the dollar in respect of all monies due.
9. I agree this guarantee shall not be affected by any changes in the constitution of the customer or the guarantor by way of reconstruction, consolidation, absorption, merger or amalgamation.
10. I agree that any claim and any dispute between the company, the customer or myself at all, shall be governed by Victorian law and I agree to submit to the jurisdiction of the courts located in the capital city of Victoria.

11. THE guarantor shall be entitled to be released from this guarantee provided that the company is given fourteen (14) days written notice of his intention to be released from this guarantee and provided that at the expiration of the notice period all liabilities of the customer to the company have been discharged.

12. IN interpreting this guarantee words importing the singular include the plural number and vice versa and words importing a gender include any gender and an expression importing a natural person includes any company, partnership, association, corporation or other body corporate and vice versa.

IN WITNESS WHEREOF I have hereunto set my hand.

DATED this _____ day of _____ 1999.

SIGNED, SEALED AND DELIVERED

by the said guarantor:.....	in the presence of:.....
[Signature of Guarantor]	[Signature of Witness]
.....
[Print name of Guarantor]	[Print name of Witness]
.....
[Address of Guarantor]	[Address of Witness]

SIGNED, SEALED AND DELIVERED

by the said guarantor:.....	in the presence of:.....
[Signature of Guarantor]	[Signature of Witness]
.....
[Print name of Guarantor]	[Print name of Witness]
.....
[Address of Guarantor]	[Address of Witness]

SIGNED, SEALED AND DELIVERED

by the said guarantor:.....	in the presence of:.....
[Signature of Guarantor]	[Signature of Witness]
.....
[Print name of Guarantor]	[Print name of Witness]
.....
[Address of Guarantor]	[Address of Witness]

EACH OF THE GUARANTORS ACKNOWLEDGES HAVING READ THE TERMS OF THIS GUARANTEE & INDEMNITY AND HAVING BEEN ADVISED TO, AND BEEN GIVEN THE OPPORTUNITY TO SEEK INDEPENDENT LEGAL ADVICE PRIOR TO THE EXECUTION OF THIS GUARANTEE & INDEMNITY