

BUSINESS APPLICATION FORM & TERMS OF TRADE

1. Full name(s) of sole trader/partners or company name owning the business ("**Customer**") _____

2. Company ACN: _____ ABN: _____

3. **Trading as:** _____ (business/trading name)

4. If the Customer is the trustee of a Trading Trust, **as trustee for** _____ (the "**Trust**")

5. Full Business Address: _____

Email Address: _____ Mobile Phone: _____

Telephone No: _____ Fax No: _____

6. Postal Address (if different to above): _____

7. Business Type (e.g. Public Company/Private Company/Trustee Company/Partnership/Sole Trader): _____

8. Details of Directors/Partners/Proprietors/Trustees:

Name: _____ M F

Home Address: _____

Telephone No: _____ Date of Birth: _____

Drivers Licence No: _____

Name: _____ M F

Home Address: _____

Telephone No: _____ Date of Birth: _____

Drivers Licence No: _____

Name: _____ M F

Home Address: _____

Telephone No: _____ Date of Birth: _____

Drivers Licence No: _____

9. Type of Business (e.g. Discount Store/Pet Shop/Newsagency): _____

10. Date Established: _____

11. Value of Estimated monthly purchases from Austwide: _____

12. Trade References: _____

1) Company: _____ Contact: _____

Ph: _____ Credit Given: _____

2) Company: _____ Contact: _____

Ph: _____ Credit Given: _____

3) Company: _____ Contact: _____

Ph: _____ Credit Given: _____

4) Bank*: _____ Branch: _____

Ph: _____ Contact: _____

(* This must be completed). By its signature to this document the Customer authorises and directs its Bank to give the Company (at the Customer's cost, if any) all information about the financial and banking affairs of the Customer as may be required by the Company from time to time.

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BUSINESS APPLICATION FORM & TERMS OF TRADE

Application is hereby made to open a trading account with Austwide Consumer Products Pty Ltd ACN 009 438 153 ("Company"). The Customer declares that all information provided is true and correct in every particular and that no information, which might affect the decision by the Company to supply Goods to the Customer under these Terms of Trade attached to this document ("Terms") has been withheld.

By the following Directors/Partners/Proprietors/Trustees

NB. The Directors/Partners/Proprietors/Trustees sign on the Customer's behalf and as Guarantors of the Customer's obligations. The Customer and Guarantors acknowledge that they have read, understood and approved these Terms.

Signature: _____
Print Full Name: _____
Witness's Signature: _____
Witness's Full Name: _____
Witness's Full Address: _____
Dated the _____ day of _____ 20 _____

Signature: _____
Print Full Name: _____
Witness's Signature: _____
Witness's Full Name: _____
Witness's Full Address: _____
Dated the _____ day of _____ 20 _____

Signature: _____
Print Full Name: _____
Witness's Signature: _____
Witness's Full Name: _____
Witness's Full Address: _____
Dated the _____ day of _____ 20 _____

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BUSINESS APPLICATION FORM & TERMS OF TRADE

AUSTWIDE CONSUMER PRODUCTS TERMS

1. Terms

- 1.1 The Customer and Guarantors acknowledge that they have read, understood and approved these Terms.
- 1.2 These Terms supersede any previous agreements or understandings of any kind between the Company and the Customer with effect from the date of this document.
- 1.3 These Terms govern all transactions and apply to all sales of Goods by the Company to, or at the direction of, the Customer, except as otherwise agreed in writing.
- 1.4 The Company may vary these Terms by written notice to the Customer and the varied Terms apply to all Goods ordered by the Customer after the date of the notice.
- 1.5 The Company will not be bound by any terms or conditions attaching to the Customer's purchase orders.

2. Orders

- 2.1 The Company may accept or reject any order for any reason and may withdraw credit at any time for any reason.
- 2.2 The Customer remains liable to the Company notwithstanding that the Goods may be delivered by the Company to a third party at the direction of the Customer.
- 2.3 The Customer must advise the Company in writing of any disputed invoice or account within 14 days of the date of delivery, otherwise the Customer is deemed to have accepted the charges as correct and will be bound thereby.
- 2.4 The Company will not be liable for any failure to fulfil any order, or part thereof, for any reason, or for or in connection with any delay in the supply or delivery of Goods.
- 2.5 Any claims for shortages or rejection of Goods are deemed to be waived and released by the Customer unless made in writing within 14 days of the delivery of the Goods.
- 2.6 In the case of oversupply or damaged Goods, the Customer may return the Goods to the Company for credit, provided the Company has been notified in writing within 14 days of the delivery, quoting the original invoice number and invoice date. At the Company's discretion, the Customer may be required to contribute towards the costs of returning the Goods.
- 2.7 The Company will not accept returned Goods that are not in their original containers/packing or that bear the Customer's price stickers, or where the Goods were initially supplied to the Customer expressly on a no return basis. Whether the Goods are damaged or soiled will be determined by the Company in its sole discretion reasonably exercised.
- 2.8 Goods may be supplied in cartons or inners. The Company may supply sufficient cartons or inners to satisfy the customer's order. The Company is not obliged to split inners. The Customer must accept all Goods so delivered.

3. Prices & Payment

- 3.1 The Customer must pay the Company's list price for Goods ordered, current at the date of delivery.
- 3.2 All Goods are sold "ex store". The Company's list prices do not include GST, or any other charges, including freight, shipping, handling or insurance. The Customer is liable to pay all GST and such other charges as applicable and as invoiced. All list prices assume 3% ullage.
- 3.3 Unless otherwise agreed in writing by the Company the Customer must pay all amounts due within 30 days after the end of month during which delivery was made, without deduction (and notwithstanding any claim whatsoever that the Customer has or may wish to make against the Company). COD accounts are due prior to delivery. The Company may withhold dispatch of any part of any order or require pre-payment for any given shipment if the Customer fails to make payments due in accordance with the provisions of these Terms or any written directions given prior to the date of delivery.
- 3.4 The Customer agrees to notify the Company of any change of address, ownership or legal status of their business and provide any further details required by the Company in order to assess any provision of ongoing credit to the Customer from time to time.
- 3.5 The Company may correct errors in invoices after issue and the Customer is liable to pay any adjusted amount within 30 days after notification of that adjustment.

4. Risk

- 4.1 All risk in the Goods will pass to the Customer on delivery.
- 4.2 Delivery is deemed to be effected at the earlier of the time when the Customer takes possession of the Goods or the time when the Goods leave the Company's premises.

5. Retention of Title

- 5.1 By way of security against future unpaid accounts, whether or not Goods have been paid for in full, ownership of the Goods does not pass to the Customer except as provided in this clause 5, and until such time, the Customer agrees that:
 - (a) the Goods are owned by the Company, the Customer holds the Goods as bailee and the Customer owes the Company the duties and liabilities of a bailee;
 - (b) the Goods must be stored in such a way that it is clear that they are the property of the Company; and
 - (c) the Company, its agents or servants, without prejudice to the Company's other rights, may enter the Customer's premises, without the necessity of giving any notice, to repossess the Goods.
- 5.2 The Company authorises the Customer to contract to sell Goods, in the ordinary course of business of the Customer, to independent third parties, in which case ownership in the Goods passes to the Customer immediately prior to the time that title passes to that third party.
- 5.3 The Company may withdraw the authority in clause 5.2 at any time, and that authority is automatically revoked if:
 - (a) a liquidator, administrator, receiver or trustee in bankruptcy is appointed in respect of the Customer or a Guarantor;
 - (b) a petition seeking the liquidation or bankruptcy of the Customer or a Guarantor is filed; or
 - (c) the Customer enters into any composition or arrangement with creditors.
- 5.4 If a liquidator, administrator, receiver or trustee in bankruptcy is appointed in respect of the Customer, none of the Customer, liquidator, administrator, receiver or trustee may sell any Goods without the Company's written, informed consent.
- 5.5 If any Goods are sold by the Customer, in the ordinary course of business of the Customer, to an independent third party, while there is an Outstanding Amount, the Customer holds the proceeds of such sale on trust for the Supplier to the extent of the Outstanding Amount.

6. Fees, Charges and Enforcement Expenses

- 6.1 Any payment not made within the specified period will attract Interest until the time of payment. Interest accrues daily. "Interest" means 17% p.a. or the current bank overdraft rate charged by the Company's bankers from time to time, whichever is the higher, calculated from the due date to date of payment.
- 6.2 The Company may sue for loss of profits and consequential damage suffered as a consequence of the Customer's breach of this Agreement.
- 6.3 The Customer is liable for and must pay all the costs of and incidental to the recovery of any Goods not paid for and any amounts due by the Customer to the Company on a full indemnity basis, including the charges of any mercantile or collection agents or solicitors appointed by the Company.
- 6.4 The Customer must pay stamp duty and any government charges payable in respect of this Agreement.

7. The Customer as a Trustee

- 7.1 If the Customer is a Trustee, this Agreement is binding upon the Customer personally and in its capacity as trustee of the Trust and the Customer warrants that:
 - (a) the Trust is properly construed as at the date of the application and will continue to be so during the term of this Agreement;
 - (b) the Customer when entering this Agreement as trustee of the Trust is acting within the scope of its authority under the trust deed; and
 - (c) it will not permit any amendment or variation to the trust (to the extent that it is able), without the prior written consent of the Company.

8. The Customer's Representations and Warranties

- 8.1 The Customer represents and warrants to the Company that, except as disclosed in writing to the Company and dispensed with in writing by the Company:
 - (a) entering this Agreement will not conflict with, or result in any breach of, or require any consent or approval under, any mortgage, contract or other undertaking or instrument to which the Customer is a party;
 - (b) the Customer is not in default or in difficulty under any deed, contract or other document or obligation, whether statutory or otherwise and no dispute exists or is threatened against the Customer which might have an adverse effect upon its business, assets or financial condition; and
 - (c) the annual and half-yearly accounts of the Customer provided by the Customer disclose a true and fair view of the financial position of the Customer and no material adverse change has occurred since the date of those accounts and the date of this Agreement.

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AUSTWIDE CONSUMER PRODUCTS TERMS

9. Exclusion of Warranties and Limitation of Liability

- 9.1 The customer acknowledges that no promise, representation or warranty or undertaking has been made by any person or company on its behalf, in relation to the Goods.
- 9.2 The Customer takes full responsibility for:
- determining that the Goods are suitable for the purpose for which the Goods are required; and
 - carefully examining the Goods for defects that a careful examination ought to reveal.
- 9.3 Save and except to any rights and warranties not permitted to be excluded by law, the liability of the Company, at the Company's option, is limited to either:
- re-provision of the Goods and/or supply of equivalent Goods; or
 - payment of the cost to have the Goods repaired.
- 9.4 Subject to the law, the Company is not liable for any consequential damage that may result from a breach of this Agreement or as a result of a breach of duty or negligence arising at law, including but not limited to loss of profit, goodwill, other losses or anticipated savings.

10. Guarantee and Indemnity

- 10.1 In consideration of the Company, at the request of the Guarantors, entering into the agreement, the Guarantors jointly and severally guarantee to the Company the performance by the customer of its obligation under the Agreement and the Terms, including the payment of all monies due by the Customer to the Company.
- 10.2 The Guarantors are bound jointly and severally as guarantors for all liability of the Customer to the Company, and they remain bound notwithstanding:
- any variation of this Agreement;
 - any extension of time or other concession, variation, or release of any kind by the Company in relation to the monies due;
 - any failure to enforce these Terms, or any other rights; (d) any release of the Customer or any co-guarantor (in full or part) for any reason; or (e) any failure by any party to execute this document properly, or at all.
- 10.3 As a separate liability and obligation the Guarantors (jointly and severally if more than one) indemnify the Company from all actions, claims, demands, notices, losses, damages, costs and expenses, of any nature whatsoever, suffered or incurred by the Company by reason of any breach or non-performance by the Customer of any of the terms or conditions of this Agreement.
- 10.4 This is a continuing guarantee and indemnity in respect of all of the Customer's debts, liabilities and obligations to the Company and in respect of every transaction by the Customer with the Company from time to time.
- 10.5 This indemnity, and the guarantee, is not affected or discharged by the insolvency, liquidation or bankruptcy of the Customer, or the release from liability for any reason of the Customer, any guarantor or any other person, or

any act or omission, or incapacity of any person, or any event or circumstance that might otherwise have the effect of discharging their liability under this guarantee and indemnity, whether as Customer, guarantor, indemnifier, principal debtor or otherwise.

11. Privacy

- 11.1 The Customer agrees and acknowledges that the Company may utilise any information previously provided to it by the Customer and any information which the Customer provides pursuant to these Terms or subsequently hereto to investigate the credit-worthiness of the Customer, including making enquiries to credit reference organisations, banks and financial institutions, the Customer's trade referees, bankers and credit providers and the Customer authorises each such person to disclose to the Company all such information in their possession concerning the Customer that is requested by the Company.
- 11.2 The Company is committed to ensuring the confidentiality and privacy of personal information which it receives. The information received may be stored.
- 11.3 The Company will not use personal information for any purposes not relating to the Goods, products or services provided by the Company to the Customer. The Company may pass all such information onto any Purchaser of the business or part of the business of the Company.

12. Miscellaneous Provisions

- 12.1 Corporate Customers must give not less than fourteen (14) days' notice of any change in the directors, or change of the shareholding of any major shareholders, of the Customer.
- 12.2 If any part of this Agreement becomes void or unenforceable then that part is severed from the Agreement and the remainder is not affected.
- 12.3 This Agreement is governed by the laws of Western Australia and the parties submit to the exclusive jurisdiction of the Courts of Western Australia.
- 12.4 If the Customer comprises more than one person, each person is jointly and severally liable for the Customer's obligations under this Agreement, and one of those persons can bind the other persons making up the Customer.

13. Definitions and Interpretation

- 13.1 Agreement means this agreement.
- 13.2 Company means Austwide Consumer Products Pty Ltd ACN 009 438 153.
- 13.3 Customer means the customer specified in items 1 to 7.
- 13.4 Goods means any goods sold by the Company to the Customer.
- 13.5 Guarantors means the Directors, Partners, Proprietors or Trustees of the Customer, as the case may be, as specified in item 8.
- 13.6 Outstanding Amount means any amount of money due from the Customer to the Company under an Agreement for the supply of Goods.

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