

# CREDIT ACCOUNT APPLICATION

To Be Completed By Applicants - Please complete all sections and read the Terms and Conditions of Trade overleaf or attached.

<b>Customer Details:</b> <input type="checkbox"/> Individual <input type="checkbox"/> Sole Trader <input type="checkbox"/> Trust <input type="checkbox"/> Partnership <input type="checkbox"/> Company <input type="checkbox"/> Other:				
Full or Legal Name:				
Trading Name: <i>(if different from above)</i>				
Physical Address:				Postcode:
Billing Address:				Postcode:
Email Address:				
Phone No:		Fax No:		Mobile No:
<b>Personal Details:</b> <i>(please complete if you are an Individual)</i>				
D.O.B.:			Driver's Licence No:	
<b>Business Details:</b> <i>(please complete if you are a Sole Trader, Trust, Partnership, Company or Other – as specified)</i>				
Company Number:			Date Incorp. <i>(current owners)</i> :	
Nature of Business:				GST No: <i>(if applicable)</i>
Paid Up Capital: \$		Estimated Monthly Purchases: \$		Credit Limit Required: \$
Principal Place of Business is: <input type="checkbox"/> Rented <input type="checkbox"/> Owned <input type="checkbox"/> Mortgaged <i>(to whom)</i> :				
Directors / Owners / Trustee <i>(if more than two, please attach a separate sheet)</i>				
(1) Full Name:			D.O.B.:	
Private Address:				Postcode:
Driver's Licence No:		Phone No:		Mobile No:
(2) Full Name:			D.O.B.:	
Private Address:				Postcode:
Driver's Licence No:		Phone No:		Mobile No:
<b>Account Terms</b>				
Purchase Order Required? <input type="checkbox"/> YES <input type="checkbox"/> NO		Accounts to be emailed? <input type="checkbox"/> YES <input type="checkbox"/> NO		
Accounts Email Address:				
Accounts Contact:				Phone No:
Bank and Branch:				Account No:
<b>Trade References:</b> <i>(please provide companies that are willing to do trade references)</i>				
Name:		Address:		Phone / Fax / Email:
1.				
2.				
3.				

I certify that the above information is true and correct and that I am authorised to make this application for credit. I have read and understand the TERMS AND CONDITIONS OF TRADE (overleaf or attached) of K & L Distributors Limited which form part of, and are intended to be read in conjunction with this Credit Account Application and agree to be bound by these conditions. I authorise the use of my personal information as detailed in the Privacy Act clause therein.

**SIGNED (CUSTOMER):** \_\_\_\_\_      **SIGNED (K&L):** \_\_\_\_\_  
 Name: \_\_\_\_\_      Name: \_\_\_\_\_  
 Position: \_\_\_\_\_      Position: \_\_\_\_\_  
 Date: \_\_\_\_\_      Date: \_\_\_\_\_

OFFICE USE ONLY				
Account / Ref. No.	CREDIT LIMIT	APPROVED BY	DATA INPUTTED	DATE
	\$			/ /

# Personal/Directors Guarantee and Indemnity

IN CONSIDERATION of K & L Distributors Limited and its successors and assigns ("K&L") at the request of the Guarantor (as is now acknowledged) supplying and continuing to supply goods and/or services to

("the Customer") [Insert Company Name In Box Provided]

## I/WE (also referred to as the "Guarantor/s") UNCONDITIONALLY AND IRREVOCABLY:

- GUARANTEE** the due and punctual payment to K&L of all monies which are now owing to K&L by the Customer and all further sums of money from time to time owing to K&L by the Customer in respect of goods and services supplied or to be supplied by K&L to the Customer or any other liability of the Customer to K&L, and the due observance and performance by the Customer of all its obligations contained or implied in any contract or agreement with K&L, including but not limited to the Terms & Conditions of Trade signed by the Customer and annexed to this Guarantee and Indemnity. If for any reason the Customer does not pay any amount owing to K&L the Guarantor will immediately on demand pay the relevant amount to K&L. In consideration of K&L agreeing to supply the goods and/or services to the Customer, the Guarantor charges all of its right, title and interest (joint or several) in any land, realty or other assets capable of being charged, owned by the Guarantor now or in the future, to secure the performance by the Guarantor of its obligations under this Guarantee and Indemnity (including, but not limited to, the payment of any money) and the Guarantor acknowledges that this personal guarantee and indemnity constitutes a security agreement for the purposes of the Personal Property Securities Act 1999 ("PPSA") and unequivocally consents to K&L registering any interest so charged. Furthermore, it is agreed by both parties that where the Guarantor is acting in the capacity as a trustee for a trust, then the Guarantor agrees to charge all its right title and interest in any land realty, or other assets capable of being charged in its own capacity and in its capacity as trustee and shall be subject to the PPSA Registration as stated above. The Guarantor irrevocably appoints K&L and each director of K&L as the Guarantor's true and lawful attorney/s to perform all necessary acts to give effect to this clause including, but not limited to, signing any document on the Guarantor's behalf which K&L may reasonably require to:
  - register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
  - register any other document required to be registered by the PPSA or any other law; or
  - correct a defect in a statement referred to in clause 1(a) or 1(b).
- HOLD HARMLESS AND INDEMNIFY** K&L on demand as a separate obligation against any liability (including but not limited to damages, costs, losses and legal fees calculated on a solicitor and own client basis) incurred by, or assessed against, K&L in connection with:
  - the supply of goods and/or services to the Customer; or
  - the recovery of monies owing to K&L by the Customer including the enforcement of this Guarantee and Indemnity, and including but not limited to K&L's nominees' costs of collection and legal costs; or
  - monies paid by K&L with the Customer's consent in settlement of a dispute that arises or results from a dispute between, K&L, the Customer, and a third party or any combination thereof, over the supply of goods and/or services by K&L to the Customer.

## I/WE FURTHER ACKNOWLEDGE AND AGREE THAT

- I/WE HAVE received, read and understood K&L's Terms and Conditions prior to entering into this Guarantee and Indemnity and agree to be bound by those Terms and Conditions.**
- This Guarantee and Indemnity shall constitute an unconditional and continuing Guarantee and Indemnity and accordingly shall be irrevocable and remain in full force and effect until all monies owing to K&L by the Customer and all obligations herein have been fully paid satisfied and performed.
- No granting of credit, extension of further credit, or granting of time and no waiver, indulgence or neglect to sue on K&L's part (whether in respect of the Customer or any one or more of any other Guarantor(s) or otherwise) and no failure by any named Guarantor to properly execute this Guarantee and Indemnity shall impair or limit the liability under this Guarantee and Indemnity of any Guarantor. Without affecting the Customer's obligations to K&L, each Guarantor shall be a principal debtor and liable to K&L accordingly.
- The liability under this Guarantee and Indemnity shall not be discharged, abrogated, prejudiced or affected by:
  - any alteration, modification, variation or addition to any contract or agreement in respect of the supply of goods and/or services;
  - the liquidation, receivership, administration, bankruptcy, dissolution, compromise or scheme of arrangement in respect of the Customer;
  - any other act, omission or event which, but for this provision, might operate to discharge, impair or otherwise affect any obligations under this Guarantee and Indemnity of any of the rights, posers or remedies conferred by this Guarantee and Indemnity or by law.
- The term "Guarantor" whenever used in this Guarantee and Indemnity shall, if there is more than one person named as Guarantor, mean and refer to each of them individually and all of them together unless the context otherwise requires, the obligations and agreements on the part of the Guarantor, shall include the Guarantor's executors, administrators, successors and permitted assignments (where applicable) contained in this Guarantee and Indemnity shall bind them jointly and severally.
- I/WE have been advised to obtain independent legal advice before executing this Guarantee and Indemnity. I/we understand that I/we am/are liable for all amounts owing (both now and in the future) by the Customer to K&L.**
- I/we irrevocably authorise K&L to obtain from any person or company any information which K&L may require for credit reference purposes. I/We further irrevocably authorise K&L to provide to any third party, in response to credit references and enquiries about me/us or by way of information exchange with credit reference agencies, details of this Guarantee and Indemnity and any subsequent dealings that I/we may have with K&L as a result of this Guarantee and Indemnity being actioned by K&L.
- The above information is to be used by K&L for all purposes in connection with K&L considering this Guarantee and Indemnity and the subsequent enforcement of the same.

**For and on behalf of the Customer I/We confirm I/We have read, understood and accept the terms of this Guarantee and Indemnity and I/We agree to be bound by this Guarantee and Indemnity.**

<b>GUARANTOR-1</b> SIGNED: _____  FULL NAME: _____  HOME ADDRESS: _____  DATE OF BIRTH: _____  SIGNATURE OF WITNESS: _____  NAME OF WITNESS: _____  OCCUPATION: _____  PRESENT ADDRESS: _____  EXECUTED as a Deed this            day of            20____
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<b>GUARANTOR-2</b> SIGNED: _____  FULL NAME: _____  HOME ADDRESS: _____  DATE OF BIRTH: _____  SIGNATURE OF WITNESS: _____  NAME OF WITNESS: _____  OCCUPATION: _____  PRESENT ADDRESS: _____  EXECUTED as a Deed this            day of            20____
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- Note: 1. If the Customer is a proprietary limited company, the Guarantor(s) must be the director(s) of the company.  
2. If the Customer is a limited partnership, the Guarantor(s) must be the general partners  
3. If the Customer is a sole trader or partnership the Guarantor(s) should be some other suitable person(s).  
4. If the Customer is a club or incorporated society the Guarantor(s) should be the president and secretary or other committee member

**WARNING: THIS IS AN IMPORTANT DOCUMENT. YOU SHOULD SEE YOUR OWN LAWYER OR ADVISOR BEFORE SIGNING IT**

# K&L Distributors Limited – Terms & Conditions of Trade

<p><b>1. Definitions</b></p> <p>1.1 <b>"Contract"</b> means the terms and conditions contained herein, together with any quotation, order, invoice or other document or amendments expressed to be supplemental to this 3.7.3 Contract.</p> <p>1.2 <b>"Cookies"</b> means small files which are stored on a user's computer. They are designed to hold a modest amount of data (including Personal Information) specific to a particular Customer and website, and can be accessed either by the web server or the Customer's computer. If the Customer does not wish to allow Cookies to operate in the background when using K&amp;L's website, then the Customer shall have the right to enable/disable the Cookies first by selecting the option to enable/disable cookies on the website, prior to making enquiries via the website.</p> <p>1.3 <b>"Customer"</b> means the person's, entities or any person acting on behalf of and with the authority of the Customer requesting K&amp;L to provide the Services as specified in any proposal, 8. quotation, order, invoice or other documentation, and:</p> <p>8.1 (a) if there is more than one Customer, it is a reference to each Customer jointly and severally; and</p> <p>8.2 (b) if the Customer is a partnership, it shall bind each partner jointly and severally; and</p> <p>(c) if the Customer is a part of a Trust, shall bind their capacity as a trustee, and</p> <p>(d) includes the Customer's executors, administrators, successors and permitted assigns.</p> <p>1.4 <b>"Goods"</b> means all Goods or Services supplied by K&amp;L to the Customer at the Customer's request from time to time (where the context so permits the terms "Goods" or "Services" shall be interchangeable for the other).</p> <p>1.5 <b>"K&amp;L"</b> means K&amp;L Distributors Limited, its successors and assigns.</p> <p>1.6 <b>"Price"</b> means the Price payable (plus any Goods and Services Tax ("GST") where applicable) for the Goods as agreed between K&amp;L and the Customer in accordance with clause 6 below. 9.1</p> <p><b>2. Acceptance</b></p> <p>2.1 The Customer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Customer places an order for or accepts Delivery 9.2 of the Goods.</p> <p>2.2 In the event of any inconsistency between the terms and conditions of this Contract and any other prior document or schedule that the parties have entered into, the terms of this Contract shall prevail.</p> <p>2.3 Any amendment to the terms and conditions contained in this Contract may only be amended 10.1 in writing by the consent of both parties.</p> <p>2.4 The Customer acknowledges and agrees:</p> <p>(a) that the delivery of Goods on credit shall not take effect until the Customer has completed a credit application with K&amp;L and it has been approved with a credit limit established for 10.2 the account; and</p> <p>(b) that the supply of Goods for accepted orders may be subject to availability and if, for any 10.3 reason, Goods are not or cease to be available, K&amp;L reserves the right to vary the Price with alternative Goods as per clause 6.2.</p> <p>2.5 In the event that the supply of Goods requested exceeds the Customer's credit limit and/or the account exceeds the payment terms, K&amp;L reserves the right to refuse Delivery.</p> <p>2.6 Any advice, recommendation, information, assistance, or service provided by K&amp;L in relation to Goods or Services supplied is given in good faith to the Customer, or the Customer's agent and is based on K&amp;L's own knowledge and experience and shall be accepted without liability on the part of K&amp;L. Where such advice or recommendations are not acted upon then K&amp;L shall require the Customer or their agent to authorise commencement of the Services in writing. K&amp;L shall not be liable in any way whatsoever for any damages or losses that occur after any subsequent commencement of the Services.</p> <p>2.7 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 226 of the Contract and Commercial Law Act 2017 or any other applicable provisions of that Act or any Regulations referred to in that Act.</p> <p><b>3. Errors and Omissions</b></p> <p>3.1 The Customer acknowledges and accepts that K&amp;L shall, without prejudice, accept no liability in respect of any alleged or actual error(s) and/or omission(s):</p> <p>(a) resulting from an inadvertent mistake made by K&amp;L in the formation and/or administration of this Contract; and/or</p> <p>(b) contained in/omitted from any literature (hard copy and/or electronic) supplied by K&amp;L in respect of the Services.</p> <p>3.2 In the event such an error and/or omission occurs in accordance with clause 3.1, and is not 11.1 attributable to the negligence and/or willful misconduct of K&amp;L, the Customer shall not be entitled to treat this Contract as repudiated nor render it invalid.</p> <p><b>4. Change in Control</b></p> <p>4.1 The Customer shall give K&amp;L not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer and/or any other change in the Customer's details (including but not limited to, changes in the Customer's name, address and contact 11.2 phone or fax number(s), change of trustees or business practice). The Customer shall be liable for any loss incurred by K&amp;L as a result of the Customer's failure to comply with this clause.</p> <p><b>5. Online Ordering</b></p> <p>5.1 The Customer acknowledges and agrees that:</p> <p>(a) K&amp;L does not guarantee the website's performance;</p> <p>(b) display on the website does not guarantee the availability of any particular Goods; therefore, all orders placed through the website shall be subject to confirmation of acceptance by K&amp;L;</p> <p>(c) on-line ordering may be unavailable from time to time for regularly scheduled maintenance and/or upgrades;</p> <p>(d) there are inherent hazards in electronic distribution, and as such K&amp;L cannot warrant against delays or errors in transmitting data between the Customer and K&amp;L including 11.3 orders, and you agree that to the maximum extent permitted by law, K&amp;L will not be liable for any losses which the Customer suffers as a result of online-ordering not being available 11.4 or for delays or errors in transmitting orders;</p> <p>(e) when making a transaction through the website, the Customer's information will pass 11.5 through a security system using SSL (secure sockets layer) encryption technology or any other similar technology as disclosed by K&amp;L and/or displayed on the website. The 11.6 encryption process ensures that the Customer's information cannot be read by or altered 11.7 by outside influences; and</p> <p>(f) if the Customer is not the cardholder for any credit card being used to pay for the Goods, K&amp;L shall be entitled to reasonably assume that the Customer has received permission from the cardholder for use of the credit card for the transaction.</p> <p>5.2 K&amp;L reserves the right to terminate the Customer's order if it learns that you have provided 12.1 false or misleading information, interfered with other users or the administration of K&amp;L's business, or violated these terms and conditions.</p> <p><b>6. Price and Payment</b></p> <p>6.1 At K&amp;L's sole discretion the Price shall be either:</p> <p>(a) as indicated on any invoice provided by K&amp;L to the Customer; or</p> <p>(b) the Price as at the date of Delivery of the Goods according to K&amp;L's current price list; or 12.2 (c) K&amp;L's quoted price (subject to clause 6.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.</p> <p>6.2 K&amp;L reserves the right to change the Price:</p> <p>(a) if a variation to the Goods which are to be supplied is requested; or</p> <p>(b) if during the course of the Services, the Goods cease to be available from K&amp;L's third party suppliers, then the right to provide alternative Goods, subject to prior confirmation and agreement of both parties; or</p> <p>(c) in the event of increases to K&amp;L in the cost of labour or materials (including but not limited 13.1 to overseas transactions that may increase as a consequence of variations in foreign currency rates of exchange and/or international freight and insurance charges) which are beyond K&amp;L's control.</p> <p>6.3 Variations will be charged for on the basis of K&amp;L's quotation, and will be detailed in writing, and shown as variations on K&amp;L's invoice. The Customer shall be required to respond to any variation submitted by K&amp;L within ten (10) working days. Failure to do so will entitle K&amp;L to add the cost of the variation to the Price. Payment for all variations must be made in full at the time of their completion.</p> <p>6.4 At K&amp;L's sole discretion a deposit may be required.</p> <p>6.5 Time for payment for the Goods being of the essence, the Price will be payable by the Customer 14.1 on the date/s determined by K&amp;L, which may be:</p> <p>(a) on or before Delivery of the Goods;</p> <p>(b) by way of instalments/progress payments in accordance with K&amp;L's payment schedule;</p> <p>(c) for certain approved Customers, due twenty (20) days following the end of the month in which a statement is posted to the Customer's address or address for notices; or</p> <p>(d) the date specified on any invoice or other form as being the date for payment; or 15.1 (e) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Customer by K&amp;L.</p> <p>6.6 Payment may be made by electronic/on-line banking, credit card (a surcharge per transaction may apply), or by any other method as agreed between the Customer and K&amp;L.</p> <p>6.7 K&amp;L may in its discretion allocate any payment received from the Customer towards any invoice that K&amp;L determines and may do so at the time of receipt or at any time afterwards. On any default by the Customer K&amp;L may re-allocate any payments previously received and allocated. 16.1 In the absence of any payment allocation by K&amp;L, payment will be deemed to be allocated in such manner as preserves the maximum value of K&amp;L's Purchase Money Security Interest (as defined in the PPSA) in the Goods.</p> <p>6.8 The Customer shall not be entitled to set off against, or deduct from the Price, any sums owed 17.1 or claimed to be owed to the Customer by K&amp;L nor to withhold payment of any invoice because part of that invoice is in dispute.</p> <p>6.9 Unless otherwise stated the Price does not include GST. In addition to the Price, the Customer must pay to K&amp;L an amount equal to any GST K&amp;L must pay for any supply by K&amp;L under this, or any other contract for the sale of the Goods. The Customer must pay GST, without deduction 17.2 or set off of any other amounts at the same time and on the same basis as the Customer pays the Price. In addition, the Customer must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.</p> <p><b>7. Delivery of Goods</b></p> <p>7.1 <b>"Delivery"</b> of the Goods is taken to occur at the time that:</p> <p>(a) the Customer or the Customer's nominated carrier takes possession of the Goods at K&amp;L's address; or</p> <p>(b) K&amp;L (or K&amp;L's nominated carrier) delivers the Goods to the Customer's nominated address 17.4 even if the Customer is not present at the address.</p>	<p>At K&amp;L's sole discretion the cost of Delivery is either included in the Price or is in addition to the Price.</p> <p>K&amp;L may deliver the Goods in separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.</p> <p>Any time specified by K&amp;L for Delivery of the Goods is an estimate only and K&amp;L will not be liable for any loss of damage incurred by the Customer as a result of Delivery being late. However both parties agree that they shall make every endeavour to enable the Goods to be delivered at the time and place as was arranged between both parties. In the event that K&amp;L is unable to supply the Goods as agreed solely due to any action or inaction of the Customer, then K&amp;L shall be entitled to charge a reasonable fee for redelivery and/or storage.</p> <p><b>Risk</b></p> <p>Risk of damage to or loss of the Goods passes to the Customer on Delivery and the Customer 18.1 must insure the Goods on or before Delivery.</p> <p>If any of the Goods are damaged or destroyed following Delivery but prior to ownership passing to the Customer, the Customer shall be liable to recover all insurance proceeds payable for the Goods. The production of these terms and conditions by K&amp;L is sufficient evidence of K&amp;L's rights to receive the insurance proceeds without the need for any person dealing with K&amp;L to make further 18.2 enquiries.</p> <p>If the Customer requests K&amp;L to leave Goods outside K&amp;L's premises for collection or to deliver the Goods to an unattended location then such Goods shall be left at the Customer's sole risk.</p> <p><b>Access</b></p> <p>The Customer shall ensure that K&amp;L has clear and free access to the work site at all times to enable them to deliver the Goods or undertake the Services. K&amp;L shall not be liable for any loss or damage to the work site (including, without limitation, damage to pathways, driveways 18.4 and concrete) or paved or grassed areas) unless due to the negligence of K&amp;L.</p> <p>It is the responsibility of the Customer to ensure that access is suitable to accept the weight of laden trucks, or other heavy equipment as may be deemed necessary by K&amp;L. The Customer agrees to indemnify K&amp;L against all costs incurred by K&amp;L in recovering such vehicles in the 19.1 event they become bogged or otherwise immovable.</p> <p><b>Title</b></p> <p>K&amp;L and the Customer agree that ownership of the Goods shall not pass until:</p> <p>(a) the Customer has paid K&amp;L all amounts owing to K&amp;L; and</p> <p>(b) the Customer has met all of its other obligations to K&amp;L.</p> <p>Receipt by K&amp;L of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised.</p> <p>It is further agreed that until ownership of the Goods passes to the Customer in accordance with clause 10.1:</p> <p>(a) the Customer is only a bailee of the Goods and must return the Goods to K&amp;L on request; 19.2 (b) the Customer holds the benefit of the Customer's insurance of the Goods on trust for K&amp;L and must pay to K&amp;L the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed;</p> <p>(c) the Customer must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and/or market value. If the Customer sells, disposes or parts with possession of the Goods then the Customer must hold the proceeds of any such act on trust for K&amp;L and must pay or deliver the proceeds to K&amp;L on demand; 19.3 (d) the Customer should not convert or process the Goods or intermix them with other goods but if the Customer does so then the Customer holds the resulting product on trust for the Customer and K&amp;L and must sell, dispose of or return the resulting product to K&amp;L as it so directs;</p> <p>(e) the Customer irrevocably authorises K&amp;L to enter any premises where K&amp;L believes the Goods are kept and recover possession of the Goods;</p> <p>(f) K&amp;L may recover possession of any Goods in transit whether or not Delivery has occurred; 19.4 (g) the Customer shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they remain the property of K&amp;L; and</p> <p>(h) K&amp;L may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Customer.</p> <p><b>Personal Property Securities Act 1999 ("PPSA")</b></p> <p>Upon assenting to these terms and conditions in writing the Customer acknowledges and agrees that:</p> <p>(a) these terms and conditions constitute a security agreement for the purposes of the PPSA; and</p> <p>(b) a security interest is taken in all Goods that have previously been supplied and that will be supplied in the future by K&amp;L to the Customer, and the proceeds from such Goods as 19.4 listed by K&amp;L to the Customer in invoices rendered from time to time.</p> <p>The Customer undertakes to:</p> <p>(a) sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which K&amp;L may reasonably require to register a financing statement or financing charge statement on the Personal Property Securities Register; 19.5</p> <p>(b) indemnify, and upon demand reimburse, K&amp;L for all expenses incurred in registering a financing statement or financing charge statement on the Personal Property Securities Register; 19.6</p> <p>(c) Register or re-assign any Goods charged thereby;</p> <p>(d) Register or re-assign any interest in, or provide a financing statement or a financing charge statement in relation to the Goods or the proceeds of such Goods in favour of a third party without the prior written consent of K&amp;L; and</p> <p>(d) immediately advise K&amp;L of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales; K&amp;L and the Customer agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall 20.1 apply to these terms and conditions.</p> <p>The Customer waives its rights as a debtor under sections 116, 120(2), 121, 125, 126, 127, 129, and 131 of the PPSA.</p> <p>Unless otherwise agreed in writing by K&amp;L, the Customer waives its right to receive a verification statement in accordance with section 148 of the PPSA.</p> <p>The Customer shall unconditionally ratify any actions taken by K&amp;L under clauses 11.1 to 11.5. Subject to any express provisions to the contrary (including those contained in this clause 11), nothing in these terms and conditions is intended to have the effect of contracting out of any 20.2 of the provisions of the PPSA.</p> <p><b>Security and Charge</b></p> <p>In consideration of K&amp;L agreeing to supply the Goods, the Customer charges all of its rights, 21.1 title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Customer either now or in the future, and the Customer grants a security interest in all of its present and after-acquired property, to secure the performance by the Customer of its obligations under these terms and conditions (including, but not limited to, the payment of any money). The terms of the charge and security interest are the terms of Memorandum 2018/4344 registered pursuant to a 209 of the Land Transfer Act 2017.</p> <p>The Customer indemnifies K&amp;L from and against all K&amp;L's costs and disbursements including legal costs on a solicitor and own Customer basis incurred in exercising K&amp;L's rights under this clause.</p> <p>The Customer irrevocably appoints K&amp;L and each director of K&amp;L as the Customer's true and lawful attorney(s) to perform all necessary acts to give effect to the provisions of this clause 12.1 including, but not limited to, signing any document on the Customer's behalf.</p> <p><b>Defects</b></p> <p>The Customer shall inspect the Goods on Delivery and shall within seven (7) days of Delivery (time being of the essence) notify K&amp;L of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Customer shall afford K&amp;L an opportunity 22.1 to inspect the Goods within a reasonable time following Delivery if the Customer believes the Goods are defective in any way. If the Customer shall fail to comply with these provisions the Goods shall be presumed to be free from any defect or damage. For defective Goods, which K&amp;L has agreed in writing that the Customer is entitled to reject, K&amp;L's liability is limited to either (at K&amp;L's discretion) replacing the Goods or repairing the Goods.</p> <p><b>Warranty</b></p> <p>For Goods not manufactured by K&amp;L, the warranty shall be the current warranty provided by the manufacturer of the Goods. K&amp;L shall not be bound by nor be responsible for any term, condition, representation or warranty other than that which is given by the manufacturer of the Goods.</p> <p><b>Consumer Guarantees Act 1993</b></p> <p>If the Customer is acquiring Goods for the purposes of a trade or business, the Customer 22.4 acknowledges that the provisions of the Consumer Guarantees Act 1993 ("CGA") do not apply to the supply of Goods by K&amp;L to the Customer.</p> <p><b>Intellectual Property</b></p> <p>The Customer agrees that K&amp;L may (at no cost) use for the purposes of marketing or entry into 22.6 any competition, any documents, designs, drawings or Goods which K&amp;L has created for the 22.7 Customer.</p> <p><b>Default and Consequences of Default</b></p> <p>Interest on overdue invoices shall default daily from the date when payment becomes due, until 22.8 the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at K&amp;L's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.</p> <p>If the Customer owes K&amp;L any money the Customer shall indemnify K&amp;L from and against all, costs and disbursements incurred by K&amp;L in recovering the debt (including but not limited to 22.9 internal administration fees, legal costs on a solicitor and own Customer basis, K&amp;L's collection agency costs, and bank disbursement fees).</p> <p>Further to any other rights or remedies K&amp;L may have under this Contract, if a Customer has made payment to K&amp;L and the transaction is subsequently reversed, the Customer shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by K&amp;L under this clause 17 where it can be proven that such reversal is found to be illegal, 22.10 fraudulent or in contravention to the Customer's obligations under this Contract.</p> <p>Without prejudice to K&amp;L's other remedies at law and K&amp;L shall be entitled to cancel all or any part of any order which the Customer reaches a decision to reject if it amounts owing to K&amp;L shall, whether or not due for payment, become immediately payable if:</p> <p>(a) any money payable to K&amp;L becomes overdue, or in K&amp;L's opinion the Customer will be unable to make a payment when it falls due;</p> <p>(b) the Customer has exceeded any applicable credit limit provided by K&amp;L;</p> <p>(c) the Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or</p> <p>(d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.</p> <p><b>Cancellation</b></p> <p>Without prejudice to any other remedies K&amp;L may have, if at any time the Customer is in breach of any obligation (including those relating to payment) under these terms and conditions K&amp;L may suspend or terminate the supply of Goods to the Customer. K&amp;L will not be liable to the Customer for any loss or damage the Customer suffers because K&amp;L has exercised its rights under this clause.</p> <p>K&amp;L may cancel any contract to which these terms and conditions apply or cancel Delivery of Goods at any time before the Goods are delivered by giving written notice to the Customer. On giving such notice K&amp;L shall repay to the Customer any money paid by the Customer for the Goods. K&amp;L shall not be liable for any loss or damage whatsoever arising from such cancellation.</p> <p>In the event that the Customer cancels Delivery of Goods the Customer shall be liable for any and all loss incurred (whether direct or indirect) by K&amp;L as a direct result of the cancellation (including, but not limited to, any loss of profits).</p> <p>Cancellation of orders for Goods made to the Customer's specifications, or for non-stockist items, will definitely not be accepted once production has commenced, or an order has been placed.</p> <p><b>Privacy Policy</b></p> <p>All emails, documents, images or other recorded information held or used by K&amp;L is "Personal Information" as defined and referred to in clause 19.3 and therefore considered confidential. K&amp;L acknowledges its obligation in relation to the handling, use, disclosure and processing of Personal Information pursuant to the Privacy Act 2020 ("the Act") including Part II of the OECD Guidelines as set out in the Act. K&amp;L acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Customer's Personal Information, held by K&amp;L that may result in serious harm to the Customer, K&amp;L will notify the Customer in accordance with the Act. Any release of such Personal Information must be in accordance with the Act and must be approved by the Customer by written consent, unless subject to an operation of law.</p> <p>Notwithstanding clause 19.1, privacy limitations will extend to K&amp;L in respect of Cookies where the Customer wishes to opt-out of the use of Cookies. K&amp;L agrees to display reference to such Cookies and/or similar tracking technologies, such as pixels and web beacons (if applicable), such technology allows the collection of Personal Information such as the Customer's:</p> <p>(a) IP address, browser, email Customer type and other similar details;</p> <p>(b) device information; and</p> <p>(c) reports are available to K&amp;L when K&amp;L sends an email to the Customer, so K&amp;L may collect and review that information ("collectively Personal Information").</p> <p>If the Customer consents to K&amp;L's use of Cookies on K&amp;L's website and later wishes to withdraw that consent, the Customer may manage and control K&amp;L's privacy controls via the Customer's web browser, including removing Cookies by deleting them from the browser history when exiting the site.</p> <p>The Customer authorises K&amp;L or K&amp;L's agent to:</p> <p>(a) access, collect, retain and use any information about the Customer;</p> <p>(i) including name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history and any overdue fines/balance information held by the Ministry of Justice for the purpose of assessing the Customer's creditworthiness; or</p> <p>(ii) for the purpose of marketing products and services to the Customer.</p> <p>(b) disclose information about the Customer, whether collected by K&amp;L from the Customer directly or obtained by K&amp;L from any other source, to any other credit provider or any credit reference agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Customer.</p> <p>Where the Customer is an individual the authorities under clause 19.3 are authorities or consents for the purposes of the Privacy Act 2020.</p> <p>The Customer shall have the right to request (by e-mail) from K&amp;L, a copy of the Personal Information about the Customer related by K&amp;L, and the right to request that K&amp;L correct any incorrect Personal Information.</p> <p>K&amp;L will destroy Personal Information upon the Customer's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this Contract or is required to be maintained and/or stored in accordance with the law.</p> <p>The Customer may complain to the Privacy Commissioner via e-mail. K&amp;L will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within twenty (20) days of receipt of the complaint. In the event that the Customer is not satisfied with the resolution provided, the Customer can make a complaint to the Privacy Commissioner at <a href="http://www.privacy.org.nz">http://www.privacy.org.nz</a>.</p> <p><b>Service of Notices</b></p> <p>Any notice given under this Contract shall be deemed to have been given and received:</p> <p>(a) by handing the notice to the other party, in person;</p> <p>(b) by leaving it at the address of the other party as stated in this Contract;</p> <p>(c) by sending it by registered post to the address of the other party as stated in this Contract; or</p> <p>(d) if sent by facsimile transmission to the fax number of the other party as stated in this Contract (if any), on receipt of confirmation of the transmission;</p> <p>(e) if sent by email to the other party's last known email address.</p> <p>Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary course of post, the notice would have been delivered.</p> <p><b>Trusts</b></p> <p>If the Customer at any time upon or subsequent to entering into the Contract is acting in the capacity of trustee of any trust ("Trust") then whether or not K&amp;L may have notice of the Trust, the Customer covenants with K&amp;L as follows:</p> <p>(a) The Contract extends to all rights of indemnity which the Customer now or subsequently holds against the Trust and the trust fund;</p> <p>(b) the Customer has full and complete power and authority under the Trust to enter into the Contract and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Customer against the Trust or the trust fund. The Customer will not release the right of indemnity or commit any breach of trust or be a party to any other action which might prejudice that right of indemnity;</p> <p>(c) the Customer will not without consent in writing of K&amp;L (K&amp;L will not unreasonably withhold consent), cause, permit, or suffer to happen any of the following events:</p> <p>(i) the removal, replacement or retirement of the Customer as trustee of the Trust;</p> <p>(ii) any alteration to or variation of the terms of the Trust;</p> <p>(iii) any advancement or distribution of capital of the Trust; or</p> <p>(iv) any resettlement of the trust property.</p> <p><b>General</b></p> <p>Any dispute or difference arising as to the interpretation of these terms and conditions or as to any matter arising herein, shall be submitted to, and settled by, mediation before resorting to any external dispute resolution mechanisms (including arbitration or court proceedings) by notifying the other party in writing setting out the reason for the dispute. The parties shall share equally the mediator's fees. Should mediation fail to resolve the dispute, the parties shall be free to pursue other dispute resolution avenues.</p> <p>The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of provision, nor shall it affect that party's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.</p> <p>These terms and conditions and any contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the Hamilton Courts of New Zealand. Subject to the CGA, K&amp;L shall be under no liability whatsoever to the Customer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by K&amp;L of these terms and conditions (alternatively K&amp;L's liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods). K&amp;L may license and/or assign all or any part of its rights and/or obligations under this Contract without the Customer's consent.</p> <p>The Customer cannot licence or assign without the written approval of K&amp;L.</p> <p>K&amp;L may elect to subcontract out any part of the Services but shall not be relieved from any liability or obligation under this Contract by so doing. Furthermore, the Customer agrees and understands that the Customer shall not be authorised to give any instruction to any of K&amp;L's sub-contractors without the authority of K&amp;L.</p> <p>The Customer agrees that K&amp;L may amend their general terms and conditions for subsequent future contracts with the Customer by disclosing such to the Customer in writing. These changes shall be deemed to take effect from the date on which the Customer accepts such changes, or otherwise on such time as the Customer makes a further request for K&amp;L to provide Goods to the Customer.</p> <p>Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm, national or global pandemics and/or the implementation of regulation, directions, rules or measures being enforced by Governments or embargo, including but not limited to any Government imposed border lockdowns (including worldwide destination ports), etc. ("Force Majeure") or other event beyond the reasonable control of either party. This clause does not apply to a failure by the Customer to make a payment to K&amp;L.</p> <p>Both parties warrant that they have the power to enter into this Contract and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this Contract creates binding and valid legal obligations on them.</p>
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Please note that a larger print version of these terms and conditions is available from K & L on request.





## Direct Debit Authority

Name of my account to be debited (acceptor)			
<input type="text"/>			
Name of my bank:			
<input type="text"/>			
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Bank	Branch	Account	Suffix

Initiator's Authorisation Code
0653713

Approved	
nnnn	mm/yy

**From the acceptor to** *[insert name of acceptor's bank]* **(my bank):**

I authorise you to debit my account with the amounts of direct debits from K & L DISTRIBUTORS LTD with the authorisation code specified on this authority in accordance with this authority until further notice.

I agree that this authority is subject to:

- The bank's terms and conditions that relate to my account, and
- The specific terms and conditions listed below.

Please include the following information on my bank statement:

Authorised signature/s:	Date:
<input type="text"/>	<input type="text"/>

### Specific conditions relating to notices and disputes

I may ask my bank to reverse a direct debit up to 120 calendar days after the debit if:

- I don't receive a written notice of the amount and date of each direct debit from the initiator, or
- I receive a written notice but the amount or the date of debiting is different from the amount or the date specified on the notice.

The initiator is required to give you a written notice of the amount and date of each direct debit no less than 10 calendar days before the date of the debit.

If the bank dishonours a direct debit but the initiator sends the direct debit again within 5 business days of the dishonour, the initiator is not required to give you a second notice of the amount and date of the direct debit.