

Customer Account Number

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CREDIT APPLICATION & TERMS OF TRADING AGREEMENT

Between

David Moss Corporation Pty Ltd

ABN 64 009 124 681 ACN 009 124 681

26 Turnbull Road, Neerabup, Western Australia 6031
PO Box 577 Wanneroo, Western Australia 6946

ADMINISTRATION:

Telephone: +61 (0) 8 9306 3344 Fax: +61 (0) 8 9306 3443

Email: admin@davidmoss.com.au

SALES:

Fax: +61 (0) 8 9306 3443

Email: sales@davidmoss.com.au

And

Dated

DOES THE COMPANY / BUSINESS HAVE ANY BILLS OF SALE, MORTGAGES, REGISTERED CHARGES OR DIRECTOR'S GUARANTEES, ETC OVER GIVEN ASSETS? YES NO

If Yes provide details.....
.....
.....

DETAILS OF THREE TRADE REFERENCES:

NAME	ADDRESS	PHONE NO	FAX NO

DETAILS OF FIVE LARGEST CONTRACTS:

CUSTOMER	CONTRACT PERIOD	CONTACT NAME	PHONE NO

THIS AGREEMENT made the.....day of.....20.....

Between **David Moss Corporation Pty Ltd** of 26 Turnbull Rd, Neerabup WA 6031 (“the Supplier”)

And.....of.....(“the Customer”)

WHEREAS –

- (a) The Customer is desirous of establishing a credit trading account with the Supplier and pursuant to its desire to establish a credit trading account has submitted to the Supplier the information and particulars as set out in the First Schedule.
- (b) The Supplier has agreed to consider the Application of the Customer and to advise the Customer as to whether or not credit will be extended to the Customer.
- (c) The parties agree that in the event of the Supplier granting to the Customer credit facilities then such credit facilities shall be on the terms and conditions herein appearing overleaf.
- (d) The Customer undertakes to advise the Supplier of any change affecting the legal entity, structure or management control of the applicant business at the time when such change occurs. Where such a change occurs the Supplier will require a new application for credit facilities.
- (e) The Customer agrees that if the applicant is a trustee, the trust will indemnify the trustee for any indebtedness to the Supplier.
- (f) If the Customer is a company, the directors of the company will sign Guarantees, guaranteeing the performance of the company’s obligations.

I/We acknowledge receipt of and accept the Standard Terms and Conditions of Trade of David Moss Corporation Pty Ltd and certify that I am / we are authorised to sign this Credit Application on behalf of the Applicant and that the information given above is correct.

Name..... Signature.....

Position..... Date.....

Name..... Signature.....

Position..... Date.....

Name..... Signature.....

Position..... Date.....

PRIVACY ACT DECLARATION BY DIRECTORS

In relation to this Application for Commercial Credit submitted to David Moss Corporation Pty Ltd and to commercial credit extended should this Application be approved, each of the undersigned individuals hereby acknowledge and agree that, subject always to the provisions of the Privacy Act 1988, if you consider it relevant to assessing the Application or whether to accept the individual as a Guarantor for any commercial credit sought or extended or to collecting overdue payments, you may obtain from or provide credit to a credit reporting agency, another credit provider or other authorised party, a report containing personal information or personal consumer credit information of the type permitted by law and may use such information for any purpose allowed by law, including exchanging same with another credit provider for the purpose of assessing the Applicant’s credit worthiness or any application for credit or commercial credit lodged by the Applicant.

Name of Director..... Signature..... Date.....

Name of Director..... Signature..... Date.....

Name of Director..... Signature..... Date.....

DAVID MOSS CORPORATION PTY LTD – TERMS AND CONDITIONS OF TRADING

The following terms and conditions of sale shall apply to and form part of any contract for the supply of goods or services by David Moss Corporation Pty Ltd (ABN 64 009 124 681).

1. The Customer hereby warrants that the information comprised in the First Schedule hereto is true, accurate and correct and is supplied for the purpose or obtaining credit.
 - (a) OFFERS AND ACCEPTANCE
Any quotation given by the Company is not an offer to sell. An order placed by the Purchaser pursuant to a quotation is not binding on the Company unless and until accepted by the Company.
2. PURCHASE ORDERS
When ordering, an official order is to be submitted by the Purchaser showing order number, certificate number (if applicable) and full description of the goods or services. Reference to the Company's quote number should also be made (where applicable).
3. INDEMNITY
Without prejudice to any other rights the Company may have, the Purchaser shall indemnify the Company for any loss, damage or expense incurred by it should the Purchaser breach any term of the contract or cancel any order or part thereof after acceptance by the Company.
4. DELIVERY
 - (a) Unless otherwise stated in writing, the Company shall arrange delivery of the goods and shall be entitled to charge a service fee for such deliveries. The Purchaser shall be responsible for unloading the goods from the delivery vehicle. Where the Company arranges delivery of the goods, delivery shall be deemed to be effected when the goods are made available for unloading by the Purchaser. In all other cases delivery shall be deemed to be effected when the goods are loaded on to the delivery vehicle at the Company's store.
 - (b) Where delivery or performance of the goods or services is affected by way of part deliveries or performance the Company shall be entitled to invoice the Purchaser to pro-rata progress payments in respect thereof.
 - (c) The Company shall not be liable for any loss or damage (including consequential loss or damage) arising from delay in delivery or failure to deliver due to circumstances beyond its reasonable control. The Purchaser shall accept and pay for goods notwithstanding late delivery.
 - (d) Deliveries to third parties may be arranged at the request of the Purchaser subject to acceptance by the Company. Deliveries to third parties pursuant to this sub-clause shall be deemed to be delivery to the Purchaser.
5. ADDITIONAL CHARGES
The Company reserves the right to charge the Purchaser for any costs, charges or expenses whatsoever that the Company may incur as a result of:
 - (a) vehicle or wagon detention (to the extent the same is not caused or contributed to by the Company);
 - (b) demurrage on ships in consequence of any act or omission of the Purchaser; or
 - (c) any special requirements or stipulations of the Purchaser accepted by the Company but not provided for in the contract.
6. STORAGE
If the Company notifies the Purchaser that the goods are ready for delivery and the Purchaser requests the Company to hold the goods on its behalf or refuses to accept delivery such goods will be held by the Company at the Purchaser's risk and the Company shall be entitled to charge a reasonable storage fee in respect of the goods.
7. CLAIMS
The Purchaser shall inspect the goods immediately upon delivery and, if the goods are damaged or not otherwise in conformity with the contract relating to their supply, shall give written notice to the Company of the allegations and details in respect thereof within seven days of delivery. Any such goods shall be left in the state and condition in which they were delivered until such time as the Company or its duly authorised agent has inspected the goods, such inspection to be carried out within a reasonable time after notification by the Purchaser. If the goods are not so left in the state and condition in which they were delivered, the Purchaser shall be deemed to have accepted the goods and shall pay the purchase price thereof.
8. RETURN OF STOCK ITEMS
Except as provided herein:
 - (a) Goods ordinarily sold as standard stock items by the Supplier may only be returned for credit to the Customer's account within fourteen (14) days of the date of delivery of the goods; and then ONLY IF prior agreement is given by a duly authorised officer, the goods are undamaged, unused and in good and saleable condition.
 - (b) Goods accepted for credit by the Supplier will attract a charge (the amount of which shall be at the discretion of the Supplier but not less than 10% of the price for those goods) to cover restocking and repacking charges. Such charges shall be deducted from the amount of credit allowed. The original Invoice number and Supplier Job number must accompany all goods returned to the Supplier.
9. RETENTION OF TITLE
While risk in the goods shall pass on delivery, legal and equitable title in the goods shall remain with the Company until full payment for all goods or services supplied by the Company to the Purchaser is made. Pending such payment the Purchaser shall hold the goods as bailee for the Company and shall return the goods to the Company if so requested. The Purchaser must store the goods separately and so that they are readily identifiable as the property of the Company. Notwithstanding the foregoing, the Purchaser as fiduciary may sell or deal with the goods in the ordinary course of its business whereupon the bailment shall immediately terminate. The Purchaser shall, if required by the Company, identify the goods as belonging to the Company.
The Company agrees that it will not exercise its right to recover the goods or request they be returned, except and unless:
 - (a) the Purchaser commits an act of bankruptcy; or
 - (b) the Purchaser is placed in liquidation (whether voluntarily or by court order) or voluntary administration; or
 - (c) the Purchaser is placed in receivership; or
 - (d) the Company lawfully terminates the contract for the sale of goods; or
 - (e) for whatever reason the goods are not paid for within the normal agreed trading terms of payment (i.e. 30 days, 60 days etc).

10. DEFAULT

Should the Purchaser fail to make due payment for any goods or services supplied by the Company, or being a natural person commit an act of bankruptcy, or being a corporation by act of omission enable the appointment of a scheme manager, trustee, official manager, receiver, receiver and manager, liquidator, administrator or any other person authorised to enter into possession of the assets of the Purchaser pursuant to a mortgage or other security the Company may, without prejudice to any other rights it may have, do any or all of the following:

- (i) Withdraw any credit facilities which may have been extended to the Purchaser;
- (ii) Withhold any further deliveries of goods or performance of services required under the contract;
- (iii) In respect of goods already delivered, enter onto the Purchaser's premises to recover and resell same for its own benefit;
- (iv) Suspend and/or terminate performance of any other contract which the Company has with the Purchaser.

11. WARRANTIES

To the extent permitted by law all implied conditions, warranties and undertaking are expressly excluded. Except as provided in the clause the Company shall not be liable for any loss or damage, whether direct or indirect (including consequential losses or damage) arising out of any breach of contract by the Company or any negligence of the Company, its employees or agents. Should the Company be liable for breach of a condition or warranty implied by Division 2 of Part V of the Trade Practice Act 1947(not being a condition or warranty implied by Section 69 of that Act), then its liability for such breach shall be limited, as its option, to any one or more of the following:

- (a) in the case of goods:
 - (i) the replacement of the goods or the supply of equivalent goods;
 - (ii) the repair of the goods;
 - (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods;
 - (iv) the payment of the cost of having the goods repaired.
- (b) in the case of services:
 - (i) the supply of the services again;
 - (ii) the payment of the cost of having the services supplied again.

12. FITNESS FOR PURPOSE

The Purchasers agree that it does not rely in the skill or judgement of the Company in relation to the suitability of any goods or services for a particular purpose unless it has indicated that purpose in writing to the Company and the Company has acknowledged that the goods will be fit for that purpose.

13. All prices are quoted exclusive of GST.

14. PAYMENT

- (a) The extension of credit shall be at the absolute discretion of the Company and where extended unless otherwise advised in writing shall require payment by net cash within 30 days of the end of the month in which the goods are delivered.
- (b) Without in any way limiting the Company's right to require payment in full on the due date, the Company may charge interest on overdue accounts at the rate of 2.5% above the National Australia Bank's variable Benchmark lending rate as from time to time applicable.
- (c) The Purchaser agrees that the Company shall be entitled to use the services of a credit agency from time to time to obtain information concerning the Purchaser (and where the Purchaser is a company, its Directors) in order to assess the Purchaser's credit worthiness.
- (d) Any expenses, costs or disbursements incurred by the Supplier in recovering or attempting to recover any outstanding monies including debt collection agency fees and solicitor's costs shall be paid by the Customer, providing that those fees do not exceed the scale charges as charged by that debt collection agency/solicitor and in any event the commission is not to exceed 18% of the debt value, plus out of pocket expenses.
- (e) The Directors/Shareholders of the applicant do hereby jointly and severally guarantee payment of the account and to enter into the Standard form of guarantee used by the Company should such guarantee be required.
- (f) The Customer hereby charges the land upon which the goods are situated or the work carried out and other land owned or in the future acquired by the Customer from time to time and the Customer agrees immediately upon being required to do so by the Supplier to enter into a mortgage to be prepared by the Supplier's solicitors on the terms and conditions as the Supplier's solicitor shall think fit to secure any sum due hereunder and the Customer further agrees and permits and authorises the Supplier to register a caveat over any land now owned by the Customer or in the future acquired by the Customer to secure any sum due hereunder at any time during the continuance of the agreement.

15. DISPUTES

In the event of any dispute between the parties arising out of the supply of goods or services by the Company to the Purchaser, either party may give written notice of the existence of such dispute to the other whereupon both parties shall immediately attempt to resolve the dispute in good faith. The parties shall consider using Assisted Dispute Resolution procedures in any attempt to resolve the dispute. Failing resolution of the dispute, either party may refer the matter to arbitration or to a court of competent jurisdiction. The applicable law shall be that of the State or Territory of acceptance of the Purchaser's order by the Company.

16. CHANGE OF OWNERSHIP – REGISTERED PARTICULARS

The Customer shall no later than 14 days prior to any proposed changes of ownership, change in Registered Particulars, alteration, addition to the shareholding or directorship, notify the Supplier of the proposed change, alteration or addition, to the Supplier and the customer shall be liable for any goods supplied by the Supplier after such change, alteration or addition unless the Supplier shall have acknowledged by writing acceptance of the intending change, alteration or addition.