



AUSTRALIAN CONSOLIDATED PLUMBING

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AC PLUMBING SUPPLIES PTY LTD T/A

AUSTRALIAN CONSOLIDATED PLUMBING

**WE CONSOLIDATE
PLUMBING'S EVERYDAY NEEDS**

Credit Application & Supply Agreement

Applicant/Customer Details

Name (Company Name/Partnership/Sole Trader):

ABN:

Authorised Representative:	Contact Number:	Contact E-mail:
a)		
b)		
c)		

Principle Place of Business

State:

Postcode:

Delivery Address (if different from above)

State:

Postcode:

Order & Payment Method¹

Refer to annexed order details.

Credit Limit & Payment Term (office use only)²

Credit Limit

\$

Payment Term:

_____ days

Guarantee

I/We, the **Guarantor(s)**, have requested the Supplier to supply to the Applicant/Customer with Goods and Services on credit in accordance with the terms set out in the Deed of Guarantee annexed to this Credit Application & Supply Agreement.

Acknowledgement

By signing below as Guarantor(s), I/We understand the terms of this Guarantee.

Signed, sealed and delivered by:

Witnessed by:

¹ Supply of Goods or Services subjected to Supplier's Conditions of Sales annexed to this Credit Application & Supply Agreement.

² Credit facility subjected to the Credit Conditions annexed to this Credit Application & Supply Agreement.

Credit Application & Supply Agreement

SUPPLIER'S CONDITIONS OF SALES

A C PLUMBING SUPPLIES PTY LTD ACN 631 981 569 (the **Supplier**) agrees to sell to the Customer the goods named in this document and the Customer agrees to purchase those goods in accordance with the following provisions:

1. Definitions

Contract means this Supplier Conditions of Sale. **Customer** means the customer named in the Order Form. **Delivery Address** means the delivery address specified in the Orders Detail. **Goods or Services** means any goods and/or ancillary services supplied by the Supplier in accordance with the order form. **Order Form** means the order form to which this Contract is annexed to. Parties mean the Supplier and the Customer collectively.

2. Customer obligations

2.1 The Contract applies if the Supplier accepts any order for Goods or Services or both from the Customer. 2.2 The Customer agrees that it must 2.2.1 pay, without any deduction or setoff, the price charged by the Supplier for Goods or Services supplied to the Customer upon placing the order. 2.2.2 pay any stamp duty assessed on this document or fee to register or maintain any security interest held by the Supplier in respect of Goods or Services supplied to the Customer. 2.2.3 advise the Supplier in writing of the occurrence of any Insolvency Event, any change in its name, ownership or control, or any step being taken to sell an asset or assets (separately or together having a value being greater than 20% in value of its gross assets) as soon as practicable and not later than within two business days of such event, change or step occurring.

3. Entire Agreement & General Provisions

3.1 The Contract governs the trading relationship between the Supplier and the Customer. All sales made by the Supplier to the Customer shall incorporate the terms and conditions of this Contract and they shall constitute the entire agreement of sale between the parties, and no variation to these Conditions of Sale will be made or binding unless reduced to writing and signed by both the Supplier and the Customer or their duly authorized representatives, servants or agents. 3.2 The Contract, unless varied in accordance with clause 3.1, shall prevail and take precedence over any other document or verbal exchanges between the parties, any terms or conditions contained or referred to elsewhere or implied by trade custom, practice or course of dealing. 3.3 The rights and obligations of the parties under the Contract do not merge on completion of any transaction contemplated by the Contract.

4. Change in Ownership

4.1 The Customer shall advise the Supplier in writing of the occurrence of any Insolvency Event, any change in its name, ownership or control including any change of directors, shareholding, unit holding or legal or beneficial interests in the Customer or the Customer's business, or any step being taken to sell an asset or assets (separately or together having a value being greater than 20% in value of its gross assets) (the **Event**) no later than within two business days of such Event occurring. The Customer shall remain liable for any Goods or Services it receives during such Events. The notice advising the Supplier of the Event must clearly state the name of the new owners and the date and time of the Event. Should the Event be conducted by a third party (e.g. solicitor, administrator, liquidator etc.) the Customer authorizes the Supplier to contact the third party, whose details must be provided by the Customer upon request, to verify the details of the Event.

5. Payment and Pricing

5.1 Payment will be made at the time the relevant order is placed. 5.2 The price of the Good or Services shall be as agreed upon by the Parties in accordance with the Order Form. The Customer acknowledges that the prices of the Goods or Services are subject to change at any time without notice.

6. Orders & Delivery

6.1 The first order of the Customer must be made by submitting this Order Form. Subsequent orders of the Customer may be made by notifying the Supplier of the

orders, whether by submitting this Order Form, or notification via email, telephone, or otherwise, all of which shall be deemed to be valid Order Forms. The Parties acknowledge that any orders made by the Customer shall be subject to the terms and conditions of this Contract. 6.2 Orders are subject to approval and acceptance by the Supplier in its absolute discretion. The Supplier may in its absolute discretion refuse to supply goods to the Customer without giving any reason for its decision. 6.3 Delivery of Goods will be at the Customer's Delivery Address unless otherwise expressly agreed between the Parties. 6.4 Delivery of Goods will be deemed to be accepted upon delivery. 6.5 The Supplier does not warrant that it will deliver any Goods within any time frame. 6.6 The Supplier shall not be liable in any way whatsoever for any losses, costs, damages or expenses incurred by the Customer as a result of non-availability, non-delivery or non-supply of goods, purported late or late delivery by the Supplier to the Customer, or any failure to meet an estimated delivery date provided by the Supplier to the Customer and generally the time of delivery shall not be of the essence. In the instance where delivery is made to the Customer and no signature is recorded on this document and it had not previously been agreed (whether verbally or in writing) between the Supplier and the Customer that signature is required, the Supplier shall not be liable for any losses incurred by the Customer as a result of purported non-delivery or shortage of delivery.

7. Ownership and Risk

7.1 The risk in the goods shall pass to the Customer upon delivery or into custody on the Customer's behalf.

8. Passing of Risk & Limitation of Liability

8.1 The Customer shall immediately upon delivery inspect the goods and is deemed to have accepted the Goods as the correct quantity and quality unless a claim is made within 24 hours after delivery in writing and the goods must be made available to the Supplier for reinspection, failing which the Goods are deemed to be merchantable and without faults. 8.2 Upon acceptance of delivery the Customer accepts any liability for loss, damage or injury or any other consequences arising out of the use of the goods, and the Customer shall indemnify the Supplier from and against any and all claims, demands, obligations, causes of action, liabilities, expenses and damages which arise or relate to any alleged defects whether latent or patent in the goods purchased. 8.3 To the maximum extent, all terms, conditions, warranties, undertakings, inducements or representations that would be implied, statutory or otherwise, relating in any way to the supply of the Goods under this Contract are excluded. 8.4 In the circumstances the Supplier is found liable in connection with the supply of the Goods and Services arising out of the Australian Consumer Law Guarantees, the Customer shall indemnify the Supplier of all losses, damages, expenses, and costs the Supplier incurred as a result of the liability. 8.5 The Supplier's liability for loss and damages is limited, to the maximum extent permitted, to the sale price of the goods. 8.6 The Customer warrants that it has not relied on any term, condition, warranty, undertaking, or representation made by or on behalf of the Supplier which has not been stated expressly in this Contract or upon any descriptions or illustrations or specifications contained in any document. 8.7 The Customer covenants and agrees to release the Supplier, its successors and assigns, as well as its officers and agents from all actions, claims, demands and causes of action which they may have against the Supplier, its officers or agents in respect of, arising out of or resulting from the supply of the goods and services. 8.8 In the event negligence, default, or breach of any terms and conditions occurs, each party must take reasonable steps to mitigate any Loss it suffers or incurs. 8.9 The indemnities and releases in the Contract are continuing obligations independent from the other obligations of the parties under the Contract and will continue after the Contract ends.

9. GST

9.1 If the Supplier has any liability to pay Goods and Services Tax (GST) on the supply of any Goods or Services to the Customer, the Customer must pay to the Supplier an amount equivalent to the GST liability of the Supplier at the same time as the consideration is paid for the Goods or Services.

10. Termination of Contract

10.1 The Supplier may terminate the Contract, without having to perform any of its obligations under the Contract, immediately by notice in the event the Customer: 10.1.1 breaches any clause of the Contract and such breach is not remedied within 7 days of written notice to the Customer; 10.1.2 materially breaches the Contract and the breach is incapable of remedy; or 10.1.3 the Customer undergoes an Insolvency Event. 10.2 Termination of the Contract shall not relieve the Customer of: 10.2.1 its obligation to pay all money owed by it to the Supplier on any account whatsoever, and all monies shall be payable immediately; and 10.2.2 liability arising from any antecedent breach of the terms of the Contract. 10.3 Upon termination of the Contract for any reason the Supplier: 10.3.1 may retain any monies paid by the Customer; 10.3.2 charge a reasonable sum for goods and services supplied in respect of which no such amount has previously been charged and the Customer agrees to pay such charge; 10.4 The termination of the Contract is without prejudice to any rights which have accrued to a party before the date of termination.

11. Variations

11.1 The Supplier reserves the right to vary the Contract and its terms and conditions at its discretion.

12. No Waiver

12.1 The Supplier's failure to insist upon strict performance of any provision of the Contract shall not be deemed to be a waiver of its rights or remedies in respect of any present or future default of the Customer in performance or compliance of any of the Contract. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.

13. Set Off

13.1 The Customer acknowledges that it has no right to set off, withholding or counter claim in respect of any monies which are or become payable by it under the Contract against any monies or claims which the Supplier may be liable for in connection with the Contract.

14. Notices

14.1 Any notice, request, demand, consent or approval sent pursuant to the Contract must be legible and in English addressed to the appropriate party and is deemed received: 14.1.1 where posted, 3 business days from and including the date of postage; 14.1.2 where delivered by hand, when delivered to the addressee; or 14.1.3 where faxed or e-mailed, when received by the addressee or if receipt is on a non-business day or after 4.00pm (addressee time) then at 9.00am the following business day.

15. Severability

15.1 If any clause or part clause of these Conditions of Sale shall for any reason be declared or become unenforceable, invalid, illegal or otherwise incapable of enforcement for any reason whatsoever, that clause or part clause shall be deemed to be severed from these Conditions of Sale and of no force and effect, but all other clauses and parts of clauses shall nevertheless prevail and remain in force and effect and be valid and fully enforceable and no clause or part clause shall be construed to be dependent upon any other clause or part clause unless so expressed herein.

16. Jurisdiction

16.1 These Conditions of Sale shall be governed by and construed in accordance with the laws of New South Wales.

CREDIT CONDITIONS

1. Definitions

Application means the Credit Application Form. Credit Account means the credit account the Supplier has granted the Customer. Conditions means these Credit Account Terms and Conditions. Consequential Loss means loss of expected savings, loss of use, loss of opportunity, loss of profit, loss of revenue, increased financing costs, loss arising from delay, or any consequential, special or indirect loss or damage, whether or not the possibility or potential extent of the loss or damage was known or foreseeable, and whether arising from a claim under indemnity, contract, tort (including negligence), statute or otherwise. Customer means applicant in this application. Goods or Services means any goods and/or services supplied by the Supplier. Loss means any expense, cost or damage of any kind and includes Consequential Loss and a fine or penalty imposed by a statutory or other authority. Parties mean the Supplier and the Customer collectively. Supplier means A C Plumbing Supplies Pty Ltd ACN 631 981 569. Supplier Conditions of Sale means any terms and conditions agreed upon by the Parties for the purchase and sale of Goods or Services.

2. Structure of this document

These Conditions, where an Application had been made, shall be incorporated into the Supplier Conditions of Sales as a form of variation in accordance with clause 3.1 of the Supplier Conditions of Sales.

3. Customer obligations

3.1 The Customer has no entitlement to credit unless the Customer has obtained a Credit Account the approval of which is subject to the Supplier's sole discretion. 3.2 The Supplier is entitled to cancel, vary and/or withdraw the Credit Account without notice. 3.3 If the Customer fails to comply with any of the terms of these Conditions or the Supplier Conditions of Sale, suffers an Insolvency Event, makes any misrepresentation to the Supplier, or if the Credit Account is withdrawn, cancelled or varied, the balance of the Customer's account to the Supplier will become due and payable immediately. 3.4 The Customer agrees that it must pay, without any deduction/setoff, the price charged by the Supplier for Goods or Services supplied to the Customer on delivery or performance, or, if credit terms are offered, within the Payment Terms as set out in the Application.

4. Overdue accounts and security

4.1 Any unpaid amount by the due date will incur interest at a rate of 5% above the Reserve Bank of Australia Cash Rate calculated daily and compounded monthly. 4.2 The Customer shall pay all costs incurred by the Supplier in the recovery of the overdue amounts and enforcing the charge in clause 4.3. In consideration of the Supplier granting the credit account, the Customer agrees to grant, and/or procure the grant of security in all present and future assets, whether in the form of charges, liens, or encumbrances, to the Supplier to secure the repayment of the amounts due to the Supplier from time to time. Where any such security is a security interest within the meaning of the Personal Property Securities Act 2009 (Cth), the Customer hereby waives their right to receive notice under s157 of the Personal Property Securities Act 2009 (Cth). 4.4 Without limiting the security in clause 4.3, the Customer agrees, on request by the Supplier, to execute any documents and do all

things reasonably required by the Supplier, (including if a beneficial owner, as beneficial owner under the Conveyancing Act 1919 (NSW) or of any analogous implied term under the applicable governing law) to perfect the security given in clause 4.3 including registering a mortgage security over any Real Property. The Customer appoints the Supplier to be the Customer's lawful attorney for the purposes of executing and registering such documents and taking all such steps in that regard. The Customer indemnifies the Supplier on an indemnity basis against all costs and expenses incurred by the Supplier in connection with the preparation and registration of any such steps needed to perfect the security or prepare or register the mortgage documents. 4.5 The Customer consents unconditionally to the Supplier lodging a caveat or caveats noting its interest in any real properties. 4.6 A statement in writing signed by a representative of the Supplier setting out the moneys due or owing to the Supplier at the date of the statement shall be conclusive evidence of the amount so due or owing.

5. Retention of title

5.1 The Supplier shall retain legal and/or equitable title in any Goods supplied to the Customer until payment in full for the supply of the Goods has been received. 5.2 Notwithstanding the Supplier's retention of legal title in the Goods, the Customer may sell such Goods or use the Goods in the ordinary course of the Customer's business. While the Customer sells/processes the Goods as principal and not as agent of the Supplier, the proceeds of sale of each item of Goods must be held by the Customer in a separate fund on trust for the Supplier and the Customer is under a duty to account to the Supplier for such proceeds. The creation of, or any failure of, any such trust shall not limit the obligation of the Customer to pay an amount to the Supplier for Goods supplied. 5.3 Until the Goods are sold/used, the Customer must store the Goods as how the Supplier directs/as required by law with due care, clearly designate the Goods as the property of the Supplier, store them in such a way they are clearly identified as the property of the Supplier and keep full and complete records of the location and ownership by the Supplier of the Goods. 5.4 The Supplier is irrevocably entitled at any time before the sale of any item of Goods by the Customer to inspect or to recover and retake possession of such Goods and otherwise exercise in relation to the Goods any of its rights whether those rights are as owner and/or unpaid Seller or otherwise and whether those rights are conferred by common law, contract, statute or in any other way. In order to exercise such entitlement, the Supplier and its agents are irrevocably authorised by the Customer to enter any of the Customer's premises or vehicles or those of any third party. The Customer agrees to obtain the consent of any such third party to such entry by the Supplier and to indemnify the Supplier and its agents for any liability arising from any entry upon such third parties' premises or vehicles. The Supplier is not liable for any damage to such premises caused by the removal of the Goods. 5.5 This reservation of title and

ownership is effective whether or not the Goods have been altered from their supplied form or commingled with other goods.

6. Security interest

6.1 The retention of title arrangement described in clause 5 constitutes the grant of a purchase money security interest by the Customer in favor of the Supplier in respect of all present and after-acquired Goods supplied to the Customer by the Supplier. 6.2 The Customer must immediately, if requested by the Supplier, sign any documents, provide all necessary information and do anything else required by the Supplier to ensure that the Supplier's purchase money security interest is a perfected security interest. 6.3 The Customer will not enter into any security agreement that permits any other person to have or to register any security interest in respect of the Goods or any proceeds from the sale of the Goods until the Supplier has perfected its purchase money security interest. 6.4 The Customer hereby waives any rights the Customer may otherwise have to: 6.4.1 receive notices under ss 95, 118, 121, 130, 132, 135 or 157. 6.4.2 apply to a Court for an order concerning the removal of an accession under section 97. 6.4.3 object to a proposal to purchase/retain any collateral under ss 130 and 135. 6.4.4 receive a copy of a verification statement confirming registration of a financing statement, or a financing change statement, relating to any security interest the Supplier may have in Goods supplied to the Customer. 6.5 For the purposes of this clause "PPSA" means the Personal Property Securities Act 2009. The expressions "accession", "collateral", "financing statement", "financing change statement", "security agreement", "security interest", "perfected security interest" and "verification statement" have the meanings given to them under, or in the context of the PPSA. References to sections are to sections of the PPSA.

7. Privacy Act & Credit Reference Authorization

7.1 The Customer acknowledges and agrees that the Company: 7.1.1 Has informed the Customer that it may give information of the types set out in Section 18E (1) of the Privacy Act 1988 about the Customer to a credit reporting agency. 7.1.2 May request and obtain a credit report from a credit reporting agency for the purpose of: 7.1.2.1 Assessing the Customer's application for trade credit; 7.1.2.2 Assessing whether to accept the Customer or guarantor in respect of credit provided by the Company; 7.1.2.3 Collecting amounts that are overdue in respect of trade credit provided by the Company to the Customer. 7.1.3 May use information obtained from any person/entity that concerns the Customer's commercial activities or commercial creditworthiness, for the purpose of assessing the Customer's application for credit. 7.1.4 Has received the Customer's authorisation to obtain any and all information it deems necessary from any source listed on the Company's Credit Application Form. The Customer hereby authorises each of the sources listed to supply the Company with such information necessary to assist in the consideration of creditworthiness of the Customer. 7.2 The Customer expressly authorises the Company to do all things described in sub-clause 7.1 above.

8. Governing law

These Conditions are governed by and are to be interpreted according to the laws in force in the state of New South Wales

DEED OF GUARANTEE

1. I/We acknowledge that I/We have sought independent legal and financial advice in relation to the Credit Application Form.

2. I/We unconditionally and irrevocably guarantee(s) to the Supplier punctual payment to the Supplier of the whole price charged by the Supplier for Goods or Services supplied to the Customer from time to time, without any deduction or setoff whatsoever. I/We also guarantee payment of any other monies now or in the future owing by the Customer to the Supplier under the Credit Account Terms and Conditions.

3. I/We indemnify the Supplier against all costs, losses, damages and expenses which the Supplier incurs as a result of any default by the Customer. I/We agree to pay any stamp duty assessed on this Guarantee.

4. My/Our guarantee and indemnity under this Guarantee is a continuing guarantee and will not be affected: 4.1. if the Supplier grants any extension of time or other indulgence to the Customer or varies the terms of the Customer's account (even if this increases my/our liability under this Guarantee) 4.2. by the release of any of the Guarantors or if this Guarantee is or becomes unenforceable against one or more of the Guarantors. 4.3. any payment by the Customer being later avoided by law, whether or not I/we have been given notice of these matters.

5. I/We agree that an application for credit made by the Customer is deemed to have been accepted from the earlier of the acceptance being communicated to the Customer or the date of the first invoice by the Supplier to the Customer and, without further notice to me/us, this Guarantee will extend to all liabilities from the Customer to that Supplier.

6. This Guarantee may be withdrawn by the Guarantor(s) on expiry of 14 days following written notice of withdrawal being delivered to the Supplier's Company Secretary at the Supplier's registered office. This Guarantee will continue in force in respect of all debt incurred up to the date of withdrawal.

7. We acknowledge that: 7.1. As security for the obligations and liabilities of the Guarantor(s), I/We charge for the due and punctual payment and performance of those obligations and liabilities, all of my/our legal and equitable interest (including as beneficial owner, both present and future) of whatsoever nature held in any and all Real Property in favour of the Supplier. 7.2. Without limiting the generality of the charge in sub-clause 7.1, I/We agree on request by the Supplier to execute any documents and do all things reasonably required by the Supplier to register a mortgage security over any Real Property. In the event that the Guarantor(s) fails to deliver the requested documents, the Guarantor(s) hereby appoints Supplier to be the

Guarantor(s)'s) lawful attorney for the purposes of executing and registering such documents. I/We indemnify the Supplier on an indemnity basis against all costs and expenses incurred by the Supplier as the case may be in connection with the preparation and registration of such mortgage documents. 7.3. I/We consent unconditionally to the Supplier lodging a caveat or caveats noting its interest in any of my/our real property.

8. Any condition or agreement under this Guarantee by or in favour of two or more persons is deemed to bind them jointly and severally or be in favor of each of them severally. If the Guarantor comprises more than one person the Supplier may at any time, and from time to time, proceed against any or all of them in respect of the Guarantor's obligations as the Supplier may choose in its absolute discretion, and the Supplier is not to be obliged to make any claim against all the persons comprising the Guarantor.

9. The definitions in the Credit Account Terms and Conditions shall apply in this Guarantee. Also, singular words include the plural and vice versa and references to any party to this Guarantee, include that party's executors, administrators, substitutes, successors or permitted assigns.

¹ Insolvency Event means, for the Customer, as applicable, being in liquidation or provisional liquidation, bankruptcy or under administration, having a controller (as defined in the Corporations Act 2001) or analogous person appointed to the Customer or any of the Customer's property, being taken under section 459F(1) of the Corporations Act 2001 to have failed to comply with a statutory demand, being unable to pay the Customer's debts, dying, ceasing to be of full legal capacity or otherwise becoming incapable of managing the Customer's own affairs for any reason, entering into a compromise or arrangement with, or assignment for the benefit of, any of the Customer's members or creditors, or any analogous event.