

ACCOUNT APPLICATION FORM

Intertrading Australia

BUILDING 1A, UNIT 5/35 Yarrunga St, Prestons NSW 2170

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*Mandatory Field

Customer Information*

Trading Name*:	<input type="text"/>
Legal Entity Name:	<input type="text"/>
ABN*:	<input type="text"/>
ACN :	<input type="text"/>
Year of Inception :	<input type="text"/>

Proprietors/Owners Details*

FULL NAME	DOB	EMAIL ADDRESS	DRIVERS LICENSE NO.
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Billing Address*

Address Line 1* :	<input type="text"/>		
Address Line 2 :	<input type="text"/>		
City*:	<input type="text"/>	Postcode* :	<input type="text"/>
State*:	<input type="text"/>	Country* :	<input type="text"/>

Primary Contact*

Full Name* :	<input type="text"/>
Email* :	<input type="text"/>
Job Role* :	<input type="text"/>
Phone* :	<input type="text"/>

Delivery Details*

Full Name* :			
Email* :			
Phone* :			
Address Line 1* :			
Address Line 2 :			
City* :		Postcode* :	
State* :		Region (Metro/Non-Metro* :	
Delivery Times (min. 6hr window between 5am-5pm) :			
Delivery Instructions (i.e rear door) :			

Pallet Details*

DELIVERY TYPE Forlift, Tailgate, Hand Unload, Pick Up	PALLET TYPE CHEP, EXPORT, LOSCAM, PLAIN, PLASTIC, SKID	EXCHANGE PALLET YES/NO

Account Payable Contact

Same as Primary Contact? (if no, please enter account payable contact details below)

☐ Yes ☐ No

Full Name* :	
Email* :	
Phone* :	

Marketing Contact (for marketing and promotional emails)

Same as Primary Contact? (if no, please enter marketing contact details below)

☐ Yes ☐ No

Email* :	
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1. DEED OF GUARANTEE

1. In requesting the above credit facilities, the Customer agrees that unless specifically amended in writing by the Companies, the general conditions of sale detailed overleaf on each page shall apply to all business transactions with the Companies in addition to such other conditions as may be specified by any other individual associated company.
2. The Customer chooses as its address for service of all notices and processes to the street address as listed above.
3. The signatory to this document agrees that, by his/her signature hereto, he/she not only binds the Customer for whom he/she purports to act, but in addition thereto binds himself/herself personally as Guarantor for and co-principal debtor in solidum with the Customer for the due and proper discharge of all such Customer's past, present and future obligations to the Companies, and any of its associated companies.
4. The person signing as "authorised signatory" for the Customer warrants that he is duly authorised to sign this contract on behalf of the Customer failing which he/she shall be held personally liable for the payment of all amounts due in terms of this contract

2. Defined Terms

2.1 In this agreement:

2.2 3PL services means third-party logistics services and includes Receipt, management, storage and distribution of the Customer's Products; Receiving, booking, routing and dispatch of the Customer's Products; Warehousing, cargo consolidation and LCL services; Such other tasks as may be reasonably necessary to effectuate the safe, expeditious, and efficient flow of the Customer's storage, management and distribution of Products.

2.3 Agreement means this Agreement including any schedules.

2.4 Business Day means a day that is not a Saturday, Sunday, bank holiday or public holiday in New South Wales, Australia.

2.5 Commencement Date means the date, or in the absence of a date, the date on which the Customer signs this Agreement, or if the Customer fails to sign this Agreement on the date that the Customer places its first order for Products in terms of this Agreement.

2.6 Confidential Information means:

the existence and terms of this Agreement including but not limited to;

Any information about a party's services, processes, systems, equipment, dealings, transactions, policies, finances, organisation, business plans, or personnel.

Any information marked 'confidential' or which a party informs the other party is confidential,

but excludes:

information publicly available at the commencement of this Agreement.

becomes publicly available subsequent to the commencement of this Agreement without breach of this Agreement;

or

was obtained from a third party without breach by that third party of any obligation of confidence concerning that Confidential Information.

2.7 Expired Products means Products that has passed its use by date.

2.8 Expiry Date means the expiry date listed in Schedule 1, or in the absence of a date, such date that is the first anniversary of the Commencement Date.

2.9 Guarantor means the person signing as "authorised signatory" for the Customer.

2.10 Product means an item supplied to the Customer.

2.11 Short-Dated, UBD or Clearance Lines means all Products which the Supplier sells to the Customer on the basis that such Products: (1) have a shelf-life or "use by" date that is shortly approaching; or (2) are being sold as part of a campaign by the Supplier to clear such products from the Supplier's storage.

2.12 Tax Invoice means an invoice that has been issued in compliance with the GST legislation.

2.13 Term means the period commencing on the Commencement Date and ending on the Expiry Date unless extended or terminated earlier under the Agreement.

3. Interpretation

3.1 This agreement is governed by the laws of New South Wales and the parties submit to the non-exclusive jurisdiction of the courts of that State.

3.2 For the purposes of this Agreement, it is confirmed that an electronic copy of a document containing an electronic signature is (without limitation) to be considered a signed document made in writing. Electronic signatures may include: (i) a copy (pdf, jpg etc.) or other electronic representation of a person's signature (including a plain text version) inputted by or with the authorisation of a person; or (ii) a data file attached to or logically associated with a signed document by or with the authorisation of a person, which in each case is intended by that person to reflect agreement to the content of the document and which allows identification of that signatory.

4. Supply of Products by the Supplier to the Customer

4.1 Supply and payment. The parties agree to the supply and payment for the Products ordered by the Customer in accordance with the terms of this Agreement.

4.2 Storage and care. The Customer must take all due and reasonable care of the Products, including providing for safe, clean, protective and otherwise appropriate storage, handling and transportation. Without limiting the preceding requirement, the Customer must adhere to good industry practice, as well as any Supplier written specifications and guidelines in respect of storage, handling and transportation as issued from time to time.

4.3 Supplier reputation. The Customer must not do anything (or fail to do anything) which:

a. causes Supplier to be brought into disrepute, contempt, scandal or ridicule; or

b. is otherwise prejudicial to the interests of Supplier (including where harmful to reputation or sales).

4.4 Representations. The Customer must:

a. sell and distribute the Products as sole principal and not as an agent or employee of Supplier; and

b. does not create any liability between Supplier and any third-party purchaser of the Products and, in particular (but without limitation), must not give or appear to give any guarantee, promise, representation or warranty in relation to the Products binding upon Supplier.

4.5 No distributorship. The Customer must not appoint any party as a sub-Customer or distributor of the Products without written notice to Supplier.

4.6 Exchange of information. The Customer shall immediately inform Supplier if it is concerned or interested either directly or indirectly in the manufacture, sale or distribution of any goods that compete with any of the Products. The Customer must ensure that adequate safeguards are put

in place to prevent any leakage or exchange of information with any other third party.

4.7 No priority. Nothing in this Agreement shall entitle the Customer to any priority of supply in relation to the Products as against Supplier's other distributors, agents or customers.

4.8 Product availability. Supplier is not obliged to continue the supply of any of the Products throughout the terms of this Agreement. Supplier may, from time to time and without liability, alter the specifications of the Products and/or discontinue Products (Supplier remains obliged to fulfil outstanding orders which it has accepted).

4.9 Discontinued Product. Supplier shall have no liability to the Customer in respect of any change to or discontinuance of any Products or brands, except in relation to orders which have been accepted by Supplier.

5. Order

5.1 Order placement: The Customer undertakes to place orders for Products using systems or processes as directed by Supplier.

5.2 Order acceptance: Acceptance of the Customer's orders is at Supplier's sole discretion.

5.3 No amendments: Once an order has been placed it cannot be amended or cancelled by the Customer without Supplier's consent.

5.4 Changes: Supplier can revise or change order procedures (e.g., minimum order quantities). Changes are effective when issued by Supplier and will supersede any contrary procedures.

6. Prices and Costs

6.1 Prices. The Products list and prices will be published from time to time. Supplier may at its sole discretion review and change the prices on 28 days notice to the Customer.

6.2 Freight costs. Prices exclude freight and delivery charges which will be charged separately and invoiced to the Customer.

6.3 Resale price. Supplier may from time to time recommend resale prices for the Products, but actual resale prices are solely determined by the Customer.

6.4 Operating expenses. The Customer is responsible for its operating expenses, including all costs and expenses incurred in the performance of obligations under this Agreement. No cost or expense is chargeable to Supplier.

7. Payment

7.1 Payment terms. The payment terms are as per agreement from date of invoice, unless agreed by each party in writing. Payment shall be made in full, without any deduction, withholding, set-off or counterclaim on account of any taxes or otherwise.

7.2 Late payment. If Supplier does not receive payment in accordance with the agreed method on the due date, without prejudice to any other rights or remedies, Supplier is entitled to:

a. suspend all further Product deliveries.

b. apply, at Supplier's discretion, any payments already received towards Products delivered; and

c. charge interest on outstanding amounts - accrued and calculated on a daily basis at 2% per month for the period from the day after the payment due date for its payment until the date on which it is actually paid, inclusive. Interest will be compounded quarterly and payable on demand.

7.3 Payment failure. Failure to pay any amount due to Supplier constitutes a breach giving Supplier a right of immediate termination of this Agreement (no notice period required).

7.4 Creditworthiness. If the Customer's creditworthiness deteriorates in Supplier's reasonable opinion, Supplier may require the Parties to review and discuss the need for revised payment and/or credit terms to be put in place before any further sales can be made to the Customer.

8. Delivery and Transfer of Risk and Title

8.1 Delivery. Unless the parties otherwise agree, the Customer shall take delivery of the Products at the Supplier's premises and shall return same to such premises in the event of termination of the contract. If the Customer requested to deliver the Products, then the Supplier will do so to such location as agreed to by Customer. Any dates quoted for delivery of the Products are approximate only and the Supplier shall not be responsible for any Customer expenses or losses due to late delivery.

8.2 Title. Subject to clause 7.3 below, title to the Products shall pass to Customer only upon payment in full in respect of the Products. In the event that any amount is due and payable by the Customer, the Supplier shall be entitled to enter upon the premises of the Customer where any Products are situated and take possession of and remove such Products. The Customer will grant the Supplier access to the premises and assist the Supplier in taking possession of and removing the Products.

8.3 Title for Short-Dated, UBD and Clearance lines. If the Supplier agrees to supply the Customer with Short-Dated, UBD or Clearance Lines then title to these Products passes when the Customer takes possession of the Products, whether by collection by the Customer or when delivered to the Customer.

8.4 Risk. Risk of loss in respect of the Products shall pass to Customer upon delivery of the Products. The Products shall be deemed to have been inspected and accepted at the point of delivery and any claims relating to shortfalls shall be made by Customer immediately on or before acceptance of the Products.

8.5 Inadequate instructions. If the Customer fails to take delivery of the Products or gives inadequate delivery instructions then, without prejudice to any other Supplier right or remedy, Supplier may store the Products until actual delivery and charge the Customer the costs (including insurance) of storage, and/or sell the Products.

8.6 Partial deliveries. The Supplier may deliver the Products in more than one consignment in which event the Products in each consignment shall be paid for on the agreed payment terms. In the event of any partial deliveries by Supplier:

a. Supplier has the right to invoice for those deliveries where the Products are accepted by the Customer; and

b. the other rights, obligations and remedies under this Agreement (including Supplier's right to charge interest on late invoice payments) also still apply to those partial deliveries.

9. Damaged and Obsolete Products and Shortfall

9.1 Detection Period. The Customer is responsible for inspecting the Products upon delivery and any: (i) Products which are obsolete or otherwise not fit for sale; and (ii) shortfall, must be reported to Supplier before acceptance of the Products.

10. Product Recall

10.1 Systems and Controls. The Customer must maintain adequate control procedures to enable Product recalls, including:

a. the implementation of a traceability system.

b. immediately notifying Supplier and providing copies of all communications with regulatory authorities; and

c. during the recall operation, assisting Supplier in locating and recovering relevant Products.

10.2 Recall Procedures.

- a. If Supplier considers that any Products do not meet their specifications, then Supplier may by written notice require the Customer to immediately recall those Products and suspend or cease further sales. The Customer must ensure those Products are: (i) clearly marked and kept separate from other stock; and (ii) handled and disposed of in accordance with Supplier's instructions.
- b. The recall process must be conducted in accordance with Supplier's instructions.
- c. The Customer must not voluntarily initiate any recall without the prior written consent of Supplier, unless compelled by law or regulatory directive.
- d. The Customer must not make any announcement of any kind in respect of the recall unless requested in writing by Supplier.

10.3 Recall Costs. Supplier will pay all reasonable costs incurred by the Customer in providing assistance for a Product recall instructed in accordance with this Clause, except where the circumstances of the recall directly or indirectly arise from the Customer's breach, fault or neglect.

11. Warranties and Indemnities

11.1 The Supplier excludes all warranties, representations, guarantees, conditions and terms, other than those expressly set out or referred to in this Agreement, whether express or implied by statute, common law, trade usage or otherwise the fullest extent permissible by law.

11.2 The Customer must indemnify and defend Supplier in respect of all claims, losses, costs and liabilities which relate to or arise from: (i) the Customer's breach of this Agreement; or (ii) damaged, unfit for sale or deteriorated Products where that is attributable to an act, omission, fault or neglect of the Customer. Supplier will have the right to conduct or participate in any related litigation and the Customer will not enter into any settlement that would impose obligations or restrictions on Supplier without Supplier's prior written consent.

12. Insurance

12.1 The Customer must ensure it has, in respect of the term of this Agreement and thereafter until expiry of the corresponding limitation period for such claim-types in respect of this Agreement, insurance of the types and amounts consistent with good business practice for the activities being conducted, for example:

- a. general liability insurance.
- b. third party liability insurance.
- c. employee liability insurance/workers compensation insurance; and
- d. other legally mandated insurances.

12.2 The Customer is responsible for the costs of that insurance, including bearing any deductibles and excess sums. If Supplier requests, the Customer must provide Supplier with evidence of what insurance is in place.

13. Limitation of Liability

13.1 Except as provided in the provisions below, neither Party is liable to the other under or in connection with this Agreement in respect of any:

- a. loss of profit, revenue, anticipated savings, business or contract; or
- b. special, indirect or consequential losses.

13.2 Nothing in the Agreement limits or excludes a Party's liability with respect to:

- a. any fraud or any other sort of liability which, under applicable law, cannot be limited or excluded; or
- b. Product recall caused by the negligence, breach, other fault of Customer or either Party.

13.3 In respect of any liability for losses and costs except for those falling within the above provisions, Supplier's total liability to the Customer arising out of or in connection with this Agreement is capped in respect of any Contract at the aggregate sum paid by the Customer to Supplier in respect of such Contract.

14. Intellectual Property

14.1 Ownership. Ownership of background intellectual property ("IP") (i.e., IP existing before this Agreement commences or created independently from this Agreement) remains unaffected by this Agreement. Supplier will own all new IP created through Customer's performance of this Agreement.

14.2 Use of IP. The Customer must not use, in the sale and distribution of the Products, any IP other than that made available by Supplier for the purposes of this Agreement, without the prior written consent of Supplier.

14.3 Counterfeit and Look-alike Products. The Customer must not deal in counterfeit or look-alike products which are likely to confuse end customers. The Customer must immediately notify Supplier if it becomes aware of such counterfeit or look-alike products in the Service Area.

14.4 Protection of Rights. The Customer must not question or seek to impeach or permit or cause any act to affect the validity of the IP or goodwill relating to the Products. The Customer must take all such steps as Supplier may reasonably require to assist in maintaining the validity and enforceability of that Product IP.

14.5 No Registration. The Customer must not seek to register or use any trademarks or trade names that resemble the Product related trademarks or trade names of Supplier and/or Supplier's Affiliates and which are likely to cause confusion or deception. The Customer must not conduct any act or make any omission which may affect the validity of Supplier's or Supplier's Affiliates' IP rights or goodwill relating to the Products.

14.6 Violation of Rights. The Customer shall promptly and fully notify Supplier of any actual, threatened or suspected infringement of, or any actions, claims, demands or proceedings in relation to, any IP relating to the Products which may come to its attention. Supplier shall have control of any related proceedings and the Customer must provide to Supplier all related assistance reasonably required, including taking or resisting any such proceedings. Supplier has no obligation to bring such proceedings and the Customer must make no admission as to liability and must not agree to any settlement or compromise of any action without Supplier's prior written consent. Any recovery obtained from such proceedings shall accrue solely to the benefit of Supplier.

14.7 Support for Rights. The Customer must otherwise take all reasonable steps to assist Supplier in maintaining the validity and enforceability of IP rights relating to the Products.

14.8 Respect of Supplier Trademarks. The Customer shall comply with all applicable laws related to the protection of Supplier trademarks.

15. Confidentiality

15.1 Each Party agrees:

- a. To keep all Confidential Information it receives confidential and only use it to fulfil this Agreement.
 - b. Not to disclose Confidential Information to any third party, except where:
 - necessary for performance of this Agreement – the Party disclosing Confidential Information to any third party is responsible for ensuring that third party maintains confidentiality of the disclosed information; or
 - required by applicable law, although the other Party must be given reasonable prior notice (where lawful).
- 15.2 When this Agreement expires or terminates, or at any time upon the written request of the other Party, each Party must return, or if clearly requested destroy, the other's corresponding Confidential Information. However, Confidential Information may be retained if required under applicable laws or if it is still needed for a Party to complete its obligations under this Agreement.

16. Term and Termination

- 16.1 This agreement will commence on the Commencement date by parties providing at least 30 days written notices.
- 16.2 Either party may immediately terminate this Agreement without notice if the other party:
- 16.2.1 commits a serious or persistent breach of this Agreement.
- 16.2.2 or its employees or agents does an unreasonable act, or is convicted of any criminal offence, which in the other party's reasonable opinion reflects unfavourably on it or on any person or entity associated with it.
- 16.2.3 ceases to be able to pay its debts as they become due.
- 16.2.4 ceases to carry on business; or
- 16.2.5 takes or has steps taken against it to appoint a receiver, a receiver and manager, a trustee in bankruptcy, a liquidator, a provisional liquidator or any other like person of the whole or any part of the default party assets or business.
- 16.3 Termination or expiration of this Agreement does not prejudice any accrued rights, liabilities or obligations of a party or excuse any party from a breach of this Agreement occurring prior to termination or expiration.
- 16.4 The terminating Party is, following termination, still entitled to seek all other legally or contractually available remedies, including recovery of damages.
- 16.5 Customer's Obligations on Termination. Upon termination of this Agreement for any cause whatsoever, the Customer must:
- a. promptly return to Supplier all tangible materials in any form, including samples, catalogues, advertising materials, specifications and other materials, documents and papers whatsoever, relating to Supplier and/or the Products which the Customer or the Customer's Affiliates possess or control under this Agreement; and
 - b. immediately pay all amounts owing to the Supplier under this Agreement that arose prior to the date of termination or expiration.
- 16.6 Unfulfilled Orders. Upon expiration or termination of this Agreement, unless otherwise agreed by the Parties in writing, all unfulfilled orders will be cancelled automatically without notice.
- 16.7 No Obligation to Repurchase. Supplier may, but is not obliged to, upon expiry or termination of this Agreement, at its discretion, repurchase from the Customer, at the net price paid by the Customer (being the relevant invoiced prices less any applicable discounts) any or all inventory of Products originally purchased by the Customer.
- 16.8 Survival. Expiry or termination of this Agreement does not affect any clause expressed or which should reasonably be construed to survive expiry or termination, including its confidentiality provisions.
- 16.9 No Liability for Termination, Expiration and Disposal of a Product Line. This Agreement is executed by both Parties with the knowledge that it may be terminated, not extended, or a Product line disposed of or otherwise discontinued. To the fullest extent permitted by law, neither Party shall be liable to the other for compensation, indemnification, reimbursement for investments or expenses, lost profits, incidental or consequential damages, or damages of any other kind or character, because of any exercise of its right to terminate this Agreement, as provided hereunder, or because of any election to refrain from extending the duration of this agreement upon the expiration of the initial term or any renewal term, or because of the disposal or discontinuation of a Product line.

17. Force Majeure

- 17.1 A "Force Majeure Event" means riot, war, rebellion, fire, flood, act of God, terrorism, act of governmental authorities, strike, labour disruption, significant changes in economic condition (exchange rates or inflation), third party supplier failure, shipping disruption or any other event similarly beyond the control of a Party to this Agreement, which makes it impossible for the affected Party to comply with the terms of this Agreement.
- 17.2 Supplier impacted by a Force Majeure Event will not be liable for any non-compliance with this Agreement to the extent caused by the Force Majeure Event, provided that the Supplier promptly notifies the Customer of the event and its likely consequences and uses reasonable efforts to mitigate the situation.

18. Administrative Provisions

18.1 Relationship of the Parties

The Parties are independently contracting under this Agreement. Nothing in this Agreement should be interpreted as creating a partnership, joint venture or agency relationship between the Parties or as granting authority for one Party to bind the other Party.

18.2 Notices

Notices provided under this Agreement must be in writing and treated as delivered:

- a. on date of delivery as documented by a pre-paid commercially recognized courier service.
- b. 5 days after posting if sent by pre-paid, certified, registered mail.
- c. on the date of in-person delivery or if delivered by email.

18.3 Amendments and Waivers

Amendments are effective only if agreed in writing and waivers need to be clearly expressed and provided in writing by the Party giving the waiver. A delay in the exercise of any right will not be considered a waiver of that right.

18.4 Assignment

The Supplier may, in its absolute discretion, assign or transfer its obligations in terms of this Agreement by the giving of 30 days notice to the Customer. Unless expressly agreed to in writing by the Supplier, the Customer is not permitted to assign or transfer any right or obligation under this Agreement.

18.5 Severability

Each provision in this Agreement is severable. If any provision or identifiable part of this Agreement is held to be invalid or unenforceable by any

court of competent jurisdiction, then such invalidity or unenforceability will not affect the remainder of this Agreement.

18.6 Entire Agreement

This Agreement sets out the entire understanding of the Parties regarding its subject matter. In entering into this Agreement, neither Party has relied upon related statements or representations of the other Party except as set out in this Agreement. Nothing in this Agreement obliges a Party to enter into any further business relationship or commitment.

19. Guarantee

19.1 The Guarantor acknowledges that it:

- a.** has authority to enter into this Agreement with the Supplier on behalf of the Customer.
- b.** has read and understood this Agreement prior to executing same on behalf of the Customer and personally as Guarantor.

19.2 The Guarantor, in entering into this Agreement and Guarantee agrees to be bound by this Agreement and to guarantee all liabilities of the Customer in terms of this Agreement, including (without limiting the generality of the foregoing) the following liabilities:

19.2.1 the due and punctual payment to the Supplier of all moneys owing.

19.2.2 the due observance and performance by the Buyer of all its obligations contained or implied in any contract with the Supplier.

19.3 The Guarantor acknowledges that this guarantee sets out separate and simultaneous obligations on its part and the Supplier shall not be required to first proceed, or exhaust its remedies, against the Customer before enforcing the terms of this Guarantee.

19.4 The Guarantor acknowledges that this guarantee constitutes a security agreement for the purposes of the Personal Property Securities Act 2009 ('PPSA') and unequivocally consents to the Supplier registering any interest so charged.

19.5 The Guarantor irrevocably appoints the Supplier as the Guarantor's true and lawful attorney/s to perform all necessary acts to give effect to this clause.

19.6 This Guarantee shall constitute an unconditional and continuing Guarantee and accordingly shall be Irrevocable and remain in full force and effect until the whole of moneys owing to the Supplier by the Customer and all Obligations herein have been fully paid satisfied.

19.7 The Guarantor has been advised to obtain independent legal advice before executing this Guarantee.

20. 3PL provisions

If the Supplier, at the request of the Customer, supplies any 3PL services then the following provisions apply:

20.1 The Supplier acts as an independent contractor and shall have sole and exclusive control over the manner in which it, its employees and agents perform the 3PL services.

20.2 The Supplier is not required to insure any Products stored and distributed as part of the 3PL services, and the Customer shall be required to obtain its own insurance cover in this regard.

Applicant Signature

Full Name :

Signature:

Date:
