



Bibina Pty Ltd

COMMERCIAL CREDIT TERMS OF TRADE

AGREED TRADING TERMS - 30 DAY ACCOUNT

A Reference to “the Supplier” means Bibina Pty Ltd ABN: 85 665 857 640. Please read the undermentioned terms carefully. If you do not understand these terms of trade you should seek legal advice.

1. The agreed trading terms are 30 days, that is, payment is due **30 days from date of Statement.**
2. The Customer further agrees to indemnify the Supplier for any legal costs incurred by the Supplier (including but not limited to charges & commission charged by mercantile agents) in respect of this application, agreements, personal guarantees, securities given or other documentation required whilst credit is being offered in consequence of this application, and the Customer further agrees to indemnify the Supplier for any dishonoured cheque fees incurred and in the event that the Customer's account is in default of the agreed trading terms to indemnify the Supplier against its collection fees & legal costs.
3. The Supplier may withdraw credit facilities to the Customer at any time without notice. Without limiting the Suppliers rights to withdraw credit, the Supplier reserves the right to stop supply & place the account on hold until the account is returned to the agreed trading terms, and the Supplier agrees to recommence supply.
4. These Terms of Trade apply to all transactions from which the Customer is supplied goods & or services on credit. If any future contract between the Supplier & the Customer is inconsistent with these Terms of Trade, then these Terms of Trade will apply unless the subsequent contract refers to and specifically alters these Terms of Trade in writing.
5. Should there be any variation to any of the information supplied by the Customer in this application or in the structure of the Customer's business (such as a conversion to or from a company or trust or the appointment of new directors), the Supplier shall be notified in writing. Until a new application form is signed and approved in writing by the Supplier, then the original application and those person(s) who signed as guarantor(s) shall remain liable to the Supplier as though all goods and services were supplied to the original Customer.
6. The Supplier reserves the right to amend these trading terms, provided such amendments are conveyed to the Customer in writing. The Customer further acknowledges that such writing will be by ordinary mail to the address set out in this Commercial Credit Application, unless the Customer advises in writing to the Supplier a new address, and this new address is acknowledged by return in writing by the Supplier.
7. The Supplier shall be entitled at any time to assign its rights under this Commercial Credit Application to its successors, nominated transferees or assigns, (including but not limited to, where applicable personal guarantees), and that these Terms of Trade shall not be in any way affected or discharged pursuant to such assignment.
8. **CAVEATABLE INTEREST CLAUSE:** In the event of Default of the agreed trading terms by the Customer, then the Customer by its Director(s)/Proprietor(s)/Partners/Individual(s), nominated on Page 1 of this application hereby charge all their Right, Title or Interest (if any) to any or all property(ies) now owned or partly owned, or in the future may become owned/partly owned, solely or jointly by the said Customer/Director(s)/Proprietor(s)/Partners/Individual(s) on Page 1 of this application in favour of the Supplier, to better secure the monies outstanding, with the due and punctual observance and performance of all of the obligations of the Customer hereunder. Such Customer acknowledges that the Supplier may at its discretion, register a caveat on such property in respect of the interest conferred on it under this clause. In the event that the Supplier is required to exercise its right under this clause, against the Customer, then the Customer grants to the Supplier the right to appoint a Receiver and sell the property(ies).
9. **RETENTION OF TITLE:** Until **ALL INVOICES** are paid in full, and **ALL MONIES** receipted and cleared, ownership of the goods remain with the Supplier, but the risk passes to the Customer on delivery. Delivery shall occur if the Supplier or its Agent delivers, on delivery, and or if the Customer or its Agent(s) takes delivery, at that point of delivery. Until the Supplier is paid in full, the relationship of the Customer to the Supplier shall be fiduciary in respect of the goods and the Customer shall hold the goods as bailee only for the Supplier. The Customer shall store the goods separately from its own until ownership has manifested in the Customer. Should the goods be on sold to a third party before payment, or in the event of the Appointment of an Administrator, Controller, Managing Controller, Receiver or Receiver Manager, or entry into an Informal/Formal Deed of Arrangement under the Bankruptcy Act of 1966 by the Customer, then the Customer hereby assigns to the Supplier its right of recovery of payment from the third party. The Customer warrants that the money(ies) resulting from the sale of the Supplier's goods will be specifically earmarked and placed in a separate account on trust for the Supplier, until payment in full is made to the Supplier for the cost of the goods only, to guarantee clear passage of ownership to the third party innocent purchaser. In the event the Customer is in default of the agreed trading terms, then the Customer without reservation grants right of entry waiver to any or all properties under the Customers control, where the goods are reasonably expected to be stored. The Customer indemnifies and save harmless the Supplier, its servants or agents in relation to loss or damage as a result of the retaking of possession of the said goods. Further in the event the Supplier exercises its right of retaking possession of the said goods, the Customer grants power of sale to the Supplier to resell the said goods and the Customer acknowledges that any shortfall owing after the said goods are resold will be the responsibility of the Customer.

**355 Hillsborough Road,
Warners Bay
NSW 2282**

**Ph: 02 4954 6044
Fax: 02 4954 7299**



10. **DELIVERY.** Deliveries shall be made during normal working hours. Deliveries required outside normal working hours will be delivered upon the request of the Customer, and all charges will be the sole responsibility of the Customer. In the event the Customer or the Customer's Agent is not on site to accept the delivery, then the driver's signature denoting the time, date & place of delivery, shall be deemed to be acceptance of the said delivery in good order and condition and in the quantity ordered by the Customer or the Customer's Agent. The date of delivery set forth in the order form is made in good faith, but the performance of the Supplier's engagement is subject to industrial disturbances, delay in transit, damage to goods in transit shortage of goods and any other cause beyond the reasonable control of the Supplier. The Supplier shall be excused from any failure to deliver or complete which is contributed to by any such cause and the time specified for completion of delivery shall be extended commensurately. Delay in delivery or completion shall not constitute a breach of contract, nor shall it affect any other provisions of the contract to the Supplier's disadvantage.
11. **SERVICE OF DOCUMENTS.** The Customer acknowledges that service of all documents will be by prepaid postal addressed envelope to the address nominated on this Commercial Credit Application form, unless a new address is provided by the Customer and such new address is acknowledged by return in writing from the Supplier. Note the Customer expressly acknowledges that service is deemed to be effected after the expiration of 2 working days from date of posting of the documents.
12. **ACCESS TO SITE:** The Customer at all times is responsible to ensure suitable access to site. The Customer further indemnifies and saves harmless the Supplier, and or its servants or agents against any loss or damage, in the event the Supplier fails to provide suitable access to site for delivery, and or whilst on site delivering.
13. **PRICE:** All goods are sold at the price current at the time of delivery. The price of the goods are at the Supplier's works. Costs and charges for freight and handling at the point of delivery to the Customer or the Customer's agent are payable by the Customer unless otherwise stated on the quote/order form.
NOTE: - Pricing may vary from time to time subject to exchange rate variations and/or material in creases outside the control of the Supplier.
14. **PAYMENT.** The Customer expressly acknowledges that at the absolute discretion of the Supplier, the Customer may be required to execute an authority to the Customer's Bank authorizing a direct debit from the Customer's Bank account, to the Supplier for all sums due on a monthly basis. The authority will be irrevocable without the express written consent of the Supplier.
15. **FINANCIAL INFORMATION.** The Customer agrees to provide financial information as is reasonably required by the Supplier from time to time, for the assessment of current and future credit limits only. The Supplier and the Customer further agree that such information shall be treated as strictly confidential and will not be disclosed to any third party(ies) without the express written permission of the Customer.
16. **QUOTE.** All quotes provided are valid for 30 days only, unless otherwise agreed by the Supplier and the Customer. All prices quoted are GST inclusive.
17. **CREDIT CLAIMS:** It is the responsibility of the Customer to carefully inspect the goods immediately they are delivered. Credit Claims will only be recognised if made in the first instance by phone within **72 HOURS** of receipt, and also in writing within 7 days of delivery. Claims outside this period will be at the absolute discretion of the Supplier, and its decision final and binding on the Customer. All goods returned must be in original condition and packaging and complete in every detail. Goods will only be accepted if the freight is prepaid by the Customer.
18. **PRIVACY ACT.** The Supplier acknowledges that all 'personal information' collected by the Supplier shall be treated in accordance with the Privacy Act 1988, as amended by the Privacy Amendment (Private Sector) Act No 155 of 2000.
19. **WARRANTIES:** All goods sold carry only such warranty, if any as is furnished by the manufacturer thereof, or as implied by law as covered under The Trade Practices Act 1974 (Cth). No warranty claims will be accepted unless the freight is prepaid by the Customer. **NOTE - No warranty work will be completed whilst ever the Customer's account is in default of the agreed trading terms.**
20. **DAMAGES:** The Supplier shall not be liable for any amount greater than the sale price of the product originally supplied. Without limiting the meaning of this clause, the Supplier shall not be liable for any claims, loss, expense whatsoever, how so ever arising, or in any event in any way whatsoever for any contingent, consequential direct/indirect special, or punitive damages arising in relation thereto, and the Customer acknowledges this express limit or liability and agrees to limit any claim accordingly. Further the Supplier shall not be responsible directly or indirectly for any consequential loss or maintenance, use or operation of the product by the Customer, or to any third party, or from any failure of the product whether defective or not.
21. **GST:** GST will be charged where appropriate, unless a signed exemption form is received by the Supplier in the approved prescribed manner as set down by the Australian Tax Office.
22. **ENVIRONMENTAL REQUIREMENTS:** The Customer confirms and acknowledges it has made all inquiries in relation to all responsibilities conferred upon the Customer, by all relevant legislation, relating to the storage of and disposal of any or all products supplied by the Supplier.
23. **INSURANCE: NO INSURANCE IS PROVIDED BY THE SUPPLIER.** The Customer acknowledges that insurance of all goods are the responsibility of the Customer at point of delivery.
24. **JURISDICTION:** The Customer acknowledges that this contract shall be governed by the Laws of the State of New South Wales, and the Customer hereby agrees to submit to the non exclusive jurisdiction of the Courts of New South Wales.

This information is for Customer to retain

Please detach this form, complete all details and forward directly to:

Bibina Pty Ltd

ABN: 85 665 857 640



Facsimile: 02 4954 7299 or P.O. Box 155, Warners Bay NSW 2282

APPLICATION FOR COMMERCIAL CREDIT - 30 DAY TRADING ACCOUNT

CUSTOMER'S BUSINESS OPERATED AS FOLLOWS:

Pty Ltd Company
 Sole Trader
 Limited/Partnership
 Individual
 Trust

CUSTOMER ACCOUNT DETAILS: (Hereinafter referred to as the "Customer")

1. Account Name: _____ ABN No: _____
 If Company, Reg Office Address: _____

2. Customers Trading Address: _____

3. Postal Address For Accounts: _____

4. Account Contact Inquiries: Name: _____ Title: _____
 Telephone No: _____ Fax No: _____ Mobile No: _____

5. Are Trading Premises Owned: YES NO or Leased?: YES NO E-Mail Add: _____
 Web Site: _____
 If Leased, Name of Agent: _____ Agent Phone No: () _____
 Lease Period From: _____ To: _____ How long in Business: _____

6. Details of Credit Applicant (**Delete as appropriate**) Name of Director(s) / Proprietor(s) / Partners / Individual(s)

Full Name	Residential Address	Telephone No:	Driver Licence No:

7. Trade References: (Minimum of three (3) Food Suppliers to be supplied to the dollar value of the credit sought)

Supplier	Branch	Telephone No/Facsimile No:	Average Monthly Purchases:

8. Bank: _____ Branch: _____ Acct No: _____

I/WE THE CUSTOMER ACKNOWLEDGE AS FOLLOWS:

9. **COMMERCIAL CREDIT TERMS OF TRADE:** To having received the Commercial Credit Trading Terms which were attached to this application.
10. **PERSONAL GUARANTEE & INDEMNITY:** That if the Customer is a Company, then the Directors will execute the Personal Guarantee & Indemnity on the reverse of this Application.
11. **DUTY OF DISCLOSURE.** The Customer Warrants not to be in receipt of any information, notice or court proceedings that may lead to Bankruptcy, Appointment of an Administrator, Controller or Managing Controller, Receiver or Receiver Manager or Liquidator, and that the Customer does not intend to enter into any scheme of arrangement with creditors either formally through a court, or otherwise. Further the Customer Warrants that none of its directors have been a director of a company placed in liquidation or administration, or has been declared a bankrupt or entered into an arrangement, under the Bankruptcy Act 1966 (as amended).
12. **PRIVACY ACT.** You authorise the Supplier to obtain from a credit reporting agency details of your personal/commercial credit information if required by the Supplier to assess this commercial credit application. Such information to be treated in accordance with the Privacy Act 1988, as amended by the Privacy Amendment (Private Sector) Act No 155 of 2000.

THIS IS TO CERTIFY: that I/We have read, comprehend and accept the Commercial Credit Terms of Trade, and further acknowledge that I/We understand & accept paragraphs 9-12 above, and that I/We are authorised to make this application on behalf of the Customer, and without undue pressure or unfair tactic, append my/our signature hereunto:

APPLICATION: *** NOTE: IF COMPANY SEE OVERLEAF FOR PERSONAL GUARANTEE & INDEMNITY ***

Signature:	Date:
Printed Name:	Position/Title
Signature:	Date:
Printed Name:	Position/Title
Nature of Business	Sales Person Area Code

PERSONAL GUARANTEE, INDEMNITY & CAVEATABLE INTEREST CLAUSE

To: **BIBINA Pty Ltd ABN: 85 665 857 640**, (hereinafter referred to as "the Supplier"), **In consideration** of the Supplier supplying goods or services or both to the Customer referred to at the bottom of this form, the Guarantor(s) and Indemnifier(s) set out below hereby Guarantee and Indemnify to the Supplier due and punctual payment by the Customer of all monies which are now payable or may in the future become payable by the Customer to the Supplier for goods & services or both supplied from time to time by the Supplier to the Customer, and all damages payable by the Customer to the Supplier, ("the secured moneys") **AND** it is hereby further agreed as follows:

1. The secured moneys shall include collection fees and legal costs incurred by the Supplier in connection with the default by the Customer.
2. The Supplier is at liberty without notice to us at any time and without in any way discharging us from any liability hereunder to grant time, waiver, release or other indulgence to the Customer and to accept from the Customer payment in cash, cheque, EFT or otherwise.
3. Nothing in this Guarantee and Indemnity is binding or conditional upon the Supplier continuing to supply goods or services or both to the Customer.
4. That the Supplier may exercise its rights under this Guarantee and Indemnity at any time and the Guarantor(s) and Indemnifier(s) shall pay the amount of any indebtedness of the Customer account to the date of any demand, forthwith upon receipt of a written demand, or its delivery to the last known address of each or all Guarantor(s) and Indemnifier(s). It shall not be a condition precedent to the issue of any such demand that the Supplier shall have exercised or exhausted its legal rights against the Customer.
5. The Guarantor(s) and Indemnifier(s) hereby guarantee and indemnify the Supplier against any losses or expenses whatsoever directly or indirectly arising from or by virtue of any default whatsoever on the part of the Customer with respect to the secured moneys.
6. This Guarantee and Indemnity shall not be considered wholly or partially discharged by the payment at any time hereafter of any of the secured moneys or by any settlement of account and shall apply to the present and any future balance of the secured moneys.
7. This Guarantee and Indemnity shall be a continuing Guarantee and Indemnity to the Supplier for all debts whatsoever and wheresoever contracted with the Customer in respect of the goods or services or both supplied or to be supplied to the Customer.
8. The Guarantor(s) and Indemnifier(s) may revoke this Guarantee and Indemnity at any time. Such revocation shall be effective only upon its delivery to the Secretary of the Supplier at its registered address and shall become effective at the time of written acknowledgment by the Secretary of its receipt. Such notice of revocation shall only operate to discharge the Guarantor(s) and Indemnifier(s) from liability as to future dealing by the Customer with the Supplier after the said date of written acknowledgment.
9. That the Supplier shall be entitled at any time to assign its rights under this Guarantee and Indemnity to its successors, nominated transferees or assigns, (including but not limited to the principal contract), & further vary the Terms of Trade originally attached to the Commercial Credit Application of the Customer nominated below, without notice to the Guarantor(s) and Indemnifier(s), & that this Guarantee and Indemnity shall not be in any way affected or discharged pursuant to such assignment or variation.
10. That the terms of this Guarantee and Indemnity are binding (if more than one) jointly on us & severally on each of us & shall not be affected notwithstanding that one or more of the intended co-guarantor(s)/indemnifier(s) have not executed this Guarantee and Indemnity or that the Guarantee and Indemnity has been held to be ineffective or unenforceable against one or more of the Guarantor(s) and Indemnifier(s)
11. That in the event that the Customer is a company and the Guarantor(s) and Indemnifier(s) are not directors then the Guarantor(s) and Indemnifier(s) certify that they have obtained independent commercial financial & legal advice prior to signing this personal Guarantee & Indemnity.
12. **CAVEATABLE INTEREST CLAUSE. In the event of default by the Customer**, and the Supplier exercises its rights under this Guarantee and Indemnity, then the Guarantor(s) and Indemnifier(s) hereby charge all their Right, Title or Interest (if any) in any or all property(ies) now owned/ partly owned, or may in the future become owned/partly owned, solely or jointly by the Guarantor(s) and Indemnifier(s) in favour of the Supplier, to better secure the monies outstanding, with the due & punctual observances and performances of all of the obligations of the Guarantor(s) and Indemnifier(s) hereunder. The Guarantor(s) and Indemnifier(s) acknowledge that the Supplier will at its discretion register a Caveat on such property in respect of the interest conferred on it under this clause. The Guarantor(s) and Indemnifier(s) further grant to the Supplier the right to appoint a Receiver to sell the property(ies).
13. The Guarantor(s) and Indemnifier(s) agree that the Supplier will seek from a Credit Reporting Agency, a Credit Report containing personal information about me/us to assess whether to accept me/us as a Guarantor(s) and Indemnifier(s) for Commercial Credit applied for, or provided to, the Customer.
14. I/We agree that if the Supplier approves the Customer's application for Commercial Credit, this agreement to seek credit reports from time to time, remains in force until the Commercial Credit facility covered by the Customer's application ceases.
15. **PRIVACY ACT.** The Supplier acknowledges that all personal information collected by the Supplier shall be treated in accordance with the Privacy Act 1988, as amended by the Privacy Amendment (Private Sector) Act No 155 of 2000.

This is to Certify that I/We have read, understood and accept the above terms and conditions of this Personal Guarantee and indemnity and without undue pressure or unfair tactic append my/our Signature hereunto. I/We acknowledge having received a copy of this said Personal Guarantee and Indemnity.

CUSTOMER NAME:

EXECUTED AS A DEED THIS

DAY OF

YEAR

SIGNED BY GUARANTOR:

NAME(print): _____

ADDRESS:

SIGNED BY GUARANTOR:

NAME(print): _____

ADDRESS:

SIGNED BY WITNESS:

NAME(print): _____

ADDRESS: