

Credit Application Form

Incorporating Terms & Conditions of Sale (with Guarantee)

Dated _____

This Application is for a Commercial Trading Account Account Holder (Customer)

Company Name _____ ABN _____

As Trustee for (if applicable) _____ (Year Created) _____

Trading as _____

Business Address _____

Postcode _____ Telephone _____

Owned _____ Rented _____

OR

Individual/Partner(s) _____ ABN _____

As Trustee for (if applicable) _____ (Year Created) _____

Trading as _____

Business Address _____

Postcode _____ Telephone _____

Owned _____ Rented _____

Individual(s)/Director(s)

Given Name Surname Age

(a) Name _____

Residential Address _____

(b) Name _____

Residential Address _____

(c) Name _____

Residential Address _____

Guarantors

Given Name Surname Age

(a) Name _____

Residential Address _____

(b) Name _____

Residential Address _____

(c) Name _____

Residential Address _____

(d) Company Name _____ ABN _____

Trading Address _____

Statement of Financial Position

As at _____

Assets	\$		Liabilities	\$
Work in Progress		_____	Overdraft Present Limit	_____
Debtors		_____	Creditors	_____
Plant & Equipment		_____	Mortgages	_____
Inventory		_____	HP/Leases	_____
Furniture & Fittings		_____	Personal Loans	_____
Motor Vehicles		_____	Registered Charges	_____
*Properties		_____	Debentures	_____
Cash at Bank		_____	Taxation	_____
Other		_____	Other	_____
Name of Accountant		_____	Telephone	_____
Business Bank		_____	Branch	_____
*Details of Properties: Individuals/Directors or Companies			Market Value \$	Mortgages \$
(1) Address or Lot No.		_____		
Name		_____		
(2) Address or Lot No.		_____		
Name		_____		
(3) Address or Lot No.		_____		
Name		_____		
Estimated Purchases Per Month: \$		_____	Maximum Credit Limit Sought: \$	_____
Trade Referees:				
(1) Name		_____	Telephone	_____
(2) Name		_____	Telephone	_____
(3) Name		_____	Telephone	_____

Agreement Between Wesbeam Pty Ltd, the Customer and the Guarantor

1. Sale and Credit Terms

By signing the application you:

- (a) are applying for a credit account with us on the terms and conditions in the application and agree to accept (and not to exceed) whatever credit limit that we allocate to you;
- (b) declare that all information provided by you or on your behalf from time to time in respect of the application and our agreement to extend credit to you is and will remain true and correct;
- (c) authorise us to contact the referees you have listed in the application and anyone else we deem necessary to obtain information with respect to the application and your credit rating;
- (d) authorise the referees you have listed in the application to provide any of the information we request according to 1(c);
- (e) authorise us to provide information about you to another credit provider or credit reporting agency;
- (f) are jointly and severally liable to us if there is more than one of you.

2. Terms and Conditions of Sale

By signing this Agreement you:

- (a) agree to acquire all goods purchased by you from us on the terms and conditions set out in the schedule, as amended or supplemented pursuant to paragraph (b);
 - (b) acknowledge that we may amend or supplement the terms and conditions set out in the schedule by notice to you. Any such notice, if posted, will be taken to have been received 2 days after posting by us to you. Any contract for the sale of goods after you are taken to have received a notice will be governed by the terms and conditions set out in the schedule, as they are amended or supplemented by the notice;
 - (c) agree to pay and reimburse us on demand for all legal costs, stamp duty or other costs or expenses suffered or incurred by us in respect of the preparation of any agreements, personal guarantees, securities or other documentation required by us to document or secure the provision of credit to you together with all collection and enforcement costs and expenses which we suffer or incur in connection with the sale of goods or provisions of credit to you including (without limitation) legal costs on a full indemnity basis.
3. Unless in the customer details on page 1 you have inserted details of a trust you do not enter into this Agreement in the capacity of a trustee of any trust or settlement.
4. You must immediately notify us in writing with details of:
- (a) any variation in the structure of your business (eg. conversion to or from a company, partnership or trust); and
 - (b) any variation in the information supplied by you in the application or otherwise in connection with the credit extended to you (including any change in the net asset position disclosed in the most recent Statement of Financial Position provided to us).
5. If you do not notify us as required by 4, you and any guarantor will be liable to us as if the goods we supply after the variation were supplied to you:

(a) in your present business form; and

(b) as if the information supplied by you in the application (or most recent Statement of Financial Position provided to us) were still correct.

6. Each person who signs this Agreement on behalf of a customer warrants that he or she has all necessary authority to do so.
7. Until you receive notice in writing from us stating that credit facilities have been granted, goods that are supplied by us to you are supplied on the basis of cash upon delivery.
8. We may withdraw your credit facilities at any time without notice.

9. Guarantee and Indemnity concerning Customer's Obligations

This section applies only to guarantors

- 9.1 In consideration of us providing any future credit to the customer, each guarantor jointly and severally guarantees that the customer will pay to us all amounts payable or remaining unpaid by the customer to us under or in connection with a contract of sale of goods between the customer and us. This guarantee continues until all these amounts have been paid in full.
- 9.2 If we ask, each guarantor must pay us any amount which the customer does not pay us when it is due.
- 9.3 As a separate undertaking, each guarantor jointly and severally indemnifies us against, and each guarantor must therefore pay us for, all liability or loss we suffer or incur if the amounts guaranteed cannot be recovered from the customer (including any payments subsequently found to constitute a preference).
- 9.4 No Guarantor's liability under this guarantee and indemnity will be affected by:
 - (a) any time or indulgence;
 - (b) the failure of any customer or any guarantor to sign this guarantee and indemnity or to do so effectively;
 - (c) the fact that the customer is a trustee of a trust;
 - (d) any other fact, matter or thing.
- 9.5 Each guarantor agrees and acknowledges that before signing this guarantee and indemnity he/she read all of the terms and conditions in this Agreement and that he/she fully understands those terms and conditions and their implications. Each guarantor acknowledges that he/she has read and that he/she understands the privacy statement contained in the Terms and Conditions attached to this application and consents to Wesbeam Pty Ltd ABN 89 004 268 017 collecting, using, storing and disclosing personal information about him/her in accordance with that privacy statement.
- 9.6 In consideration of us providing financial accommodation to you, each guarantor agrees to charge all of its estate and interest in any land of which it is or becomes the registered proprietor or acquires an estate and interest (whether in its own capacity or as trustee of a trust), which charge secures to us the payment of all amounts payable or remaining unpaid, now or in the future, by the guarantor to us under this clause 9. Each guarantor acknowledges that we may lodge a caveat against the title to any such land to protect our rights under this clause 9.

10. Trustee Application

This section applies where the customer acts as the trustee of any trust

- 10.1 You acknowledge that you make the application, and assume obligations and are bound under this Agreement and any contract concerning goods, in both your personal capacity and as trustee of the trust described in the application.
- 10.2 You acknowledge that in making the application and assuming obligations under this Agreement and any contract concerning goods you are doing so for the purposes of the trust and for the benefit of the beneficiaries of the trust.
- 10.3 If we ask you to, you must provide us with a stamped copy of the deed of trust constituting the trust (with all amendments).
- 10.4 You acknowledge that you are the only trustee of the trust and that you have all the necessary authorisations to make the application and to enter into this Agreement.
- 10.5 You agree, at your own expense to do, and cause your successors to do, everything necessary to bind you and your successors as trustee of the trust under this Agreement and any contract concerning goods.

11. Partnership Application

This section applies where the customer is a partnership

- 11.1 "You" and "customer" comprises each person or body corporate who, at any time on or after the date of this Agreement, carries on business in partnership with other persons under the name of the partnership described in the application or under a name substituted or further substituted for that name ("Partnership").
- 11.2 You agree to procure any new partner coming into the Partnership to execute, within 30 days of becoming a new partner, an acknowledgment under which he/she will agree to be bound by the terms and conditions of this Agreement as if he/she had been a partner at the date of this Agreement.

11.3 Any person who ceases to be a partner of the Partnership will be and remain liable to us as principal debtor for the obligations of the Partnership and all substitute or replacement Partnerships until we release that person.

12. Meaning of words in this Agreement and the Terms and Conditions in the Schedule:

- guarantor: means the person or persons signing this Agreement as guarantor, and if there is more than one, means each of them separately and every two or more of them jointly.
- including: when introducing an example does not limit the meaning of the words to which the example relates to that example or to examples of a similar kind.
- we or us: means Wesbeam Pty Ltd ABN 89 004 268 017 and its successors and assigns.
- you or customer: means each person named in the application as the customer and each other person who is deemed to be a customer by this Agreement and the successors and assigns permitted by us.

References to "this Agreement" include the Terms and Conditions set out in the schedule to this Agreement (as amended or supplemented from time to time in accordance with 2(b) above) and any additional terms incorporated into this Agreement. The schedule of Terms and Conditions in force for the time being can be accessed from our Website at www.wesbeam.com/supply terms and conditions.

You acknowledge that you have read and that you understand this Agreement.

You acknowledge that you have read and that you understand the privacy statement contained in the Terms and Conditions in the schedule to this Agreement (as amended or supplemented from time to time in accordance with 2(b) above) and consent to Wesbeam Pty Ltd ABN 89 004 268 017 collecting, using, storing and disclosing personal information about you in accordance with that privacy statement.

COMPANY

The Common Seal of
is affixed in the presence of

Director

Director/Secretary

COMPANY

The Common Seal of
is affixed in the presence of

Director

Director/Secretary

Dated
/ /

INDIVIDUAL

Signed by

Name of Customer

Signature of witness

Name of witness

Residential Address of witness

INDIVIDUAL

Signed by

Name of Customer

Signature of witness

Name of witness

Residential Address of witness

Dated
/ /

GUARANTOR AS INDIVIDUAL

Signed by

Name of Guarantor

Signature of witness

Name of witness

Residential Address of witness

GUARANTOR AS INDIVIDUAL

Signed by

Name of Guarantor

Signature of witness

Name of witness

Residential Address of witness

Dated
/ /

CORPORATE GUARANTOR

The Common Seal of
is affixed in the presence of

Director

Secretary

Dated
/ /

Schedule: Terms and Conditions

This section applies to every customer

1. You will purchase and we will supply goods to you only on these terms and conditions. However, we are not obliged to supply goods to you when requested to do so.
2. The delivery of goods to you and your acceptance of their delivery constitute a binding contract for the sale of those goods on these terms and conditions.
3. No course of prior dealings between you and us and no usage of trade are relevant to supplement or explain any term or condition of this schedule.
4. These terms and conditions:-
 - (a) constitute a complete and exclusive statement of the agreements, understandings, terms and conditions between you and us with respect to the supply of goods by us to you, notwithstanding any conditions to the contrary expressed in any of your order forms or other documents;
 - (b) supersede all prior arrangements, written or oral unless the prior arrangements otherwise specify; and
 - (c) bind you jointly and severally if there are more than one of you.
5. All additions and modifications to the Agreement or these terms and conditions must be in writing signed by us or on our behalf.
6. Except where payment for goods supplied to you is made immediately in cash, payment is due:-
 - (a) according to a written and agreed terms of payment; or
 - (b) if no terms of payment have been agreed, within 30 days from the end of the month in which delivery is made.
7. When paying please refer to the relevant invoice. If you do not refer to a particular invoice when making payments, we may apply the payment to the earliest outstanding invoice or other amounts owing at our discretion.
8. After the due date for payment, we will charge interest on outstanding amounts payable, calculated on a daily balance. The rate to be applied to each daily balance is the Reference Rate for the time being of Westpac Banking Corporation plus 4% per annum.
9. If you do not say otherwise within 7 days of delivery of goods, you must accept that those goods delivered are in accordance with your order. We will treat all claims for credit for returned goods on an individual transaction basis.
10. Notwithstanding 11 and 15, you will bear all risk in respect of the goods from the time of delivery to you or your carrier at our premises or warehouse or delivery by us to you (as the case may be), unless otherwise agreed in writing between you and us.
11. You must, at your own expense, insure the goods for our benefit against loss or damage, however caused, from the time risk passes to you as referred to in 10 and must keep this insurance on foot until property in the goods passes to you as set out in 15.
12. If you:-
 - (a) fail to pay for any goods on the due date; or
 - (b) commit an act of bankruptcy; or
 - (c) allow a trustee in bankruptcy or receiver or receiver and manager to be appointed to you or any of your property; or
 - (d) allow distress to be levied or a judgement, order or security to be enforced, or to become enforceable against your property; or
 - (e) are a company and:-
 - (i) proceedings are commenced to wind up you or any of your subsidiaries or for the appointment of a provisional liquidator or placing you or any of your subsidiaries under official management; or
 - (ii) a directors meeting is called for the purposes of considering the appointment of a voluntary administrator or enabling you or any of your subsidiaries to avail itself of any other avenue of protection from creditors, then we and our agents may enter upon your premises (doing all that is necessary to gain access) where goods supplied under the Agreement are situated at any time and retake possession of any or all of the goods we have supplied to you.
13. If:-
 - (a) you fail to make a payment on the due date; or
 - (b) you cancel delivery of the goods; or
 - (c) we withhold delivery for any other reason; or
 - (d) we re-take possession of any or all of the goods we have supplied to you, then we reserve the right to resell the goods concerned.
14. If we conduct a re-sale pursuant to 13:-
 - (a) we may do so at our premises or elsewhere; and
 - (b) the re-sale may, at our discretion, be by public or private sale or in fulfilment of one of our existing supply contracts; and
 - (c) we may recover from you as liquidated damages for our loss of bargain, the difference between the re-sale price and the unpaid contract price (together with interest and any incidental damages, such as holding expenses and charges but less expenses saved as a result of your breach of contract). (If applicable goods cannot be sold within 3 months of the first attempted sale, those goods will be deemed to have a re-sale price of nil).
15. Personal Properties Security Act 2009 (Cth) ("PPSA")
 - 15.1 This clause applies to goods supplied after the Registration Commencement Time as defined in the PPSA. In relation to goods supplied to:
 - (a) property in those goods will remain with us until the latter of:
 - (i) payment in full for the goods; and
 - (ii) payment in full of all other monies owing or unpaid by you to us including monies in respect of goods previously or subsequently supplied to you by us;
 - (b) the relationship between you and us is fiduciary on your part and you will hold all goods supplied by us to you as bailee for us;
 - (c) where you sell those goods, you will sell as principal and you have no power to commit us to any contract or liability, but as between you and us you will sell as fiduciary agent;
 - (d) we will be given ownership in any new goods or objects formed if you transform our goods into other products or affix those goods to other objects as provided for in section 99 of the PPSA;
 - (e) where any goods supplied by us are disposed of, the monies resulting from the disposal and all other proceeds (tangible or intangible) received in respect of the goods, including insurance proceeds, will be:
 - (i) if section 62 of the PPSA applies, subject to a security interest in our favour as provided for in that section; or
 - (ii) in all other respects kept separately in trust for us;
 - (f) where goods supplied by us are disposed of by you, you will only dispose of them in the ordinary course of your business on commercially reasonable terms;
 - (g) you will keep records of the disposal of such goods;
 - (h) you will store all goods supplied by us separately from your own and from goods supplied by others until they are paid for; and
 - (i) for the purposes of section 14(6) of the PPSA (but subject to clause 7 of above) if you pay us money without reference to a particular invoice we may apply that money as follows: first to satisfy any obligation to us in respect of which we do not have security interest in goods; second to in respect of monies owed for goods in respect of which we do not have a Purchase Money Security Interest (under the PPSA) and lastly in respect of monies owed for goods in respect of which we have a Purchase Money Security Interest.
 - 15.2 For the purposes of section 115 of the PPSA, goods are supplied to you on the understanding that they are not to be used predominantly for personal, domestic or household purposes. If this is not the case, you must inform us immediately. You agree that the following provisions of the PPSA are contracted out of and will not apply as between you and Wesbeam or, will apply as modified as follows:
 - (a) sections 95, 121(4), 130, 132(3)(d), 132(4) and 135 will not apply and are contracted out of in full;
 - (b) the other sections referred to in section 115 will apply to the supply of goods by us to you in addition to all other rights we have under these terms and conditions or at general law in respect of goods".
- 15.3 You agree that we may register a financing statement on the register maintained for the purposes of the PPSA. For the purposes of section 157 (3) of that Act, you waive any requirement for us to provide you with a verification statement.
16. To identify our goods, we may mark or label them in any manner.
17. You have the benefit of conditions and warranties implied by the Trade Practices Act 1974 ("Act") and nothing in these terms and conditions is intended to exclude, restrict or modify any statutory obligation we have if that cannot lawfully be effected. References to specific provisions of and circumstances arising under the Act are intended to include reference to equivalent or similar provisions of and circumstances arising under any State or Territory enactment.
18. Should we be liable for breach of a condition or warranty implied by Division 2 of Part V of the Act (not being a condition or warranty implied by Section 69 of the Act) our liability for the breach will, subject to Section 68A (2) of the Act, be limited to one of the following as determined by us:-
 - (a) the replacement of the goods or the supply of equivalent goods; or
 - (b) the payment of the cost of replacing the goods or of acquiring equivalent goods.
19. In consideration of us deferring the time for payment of goods supplied to you under these terms and conditions, you charge to us all of your estate and interest in any land of which you are or become the registered proprietor or acquire an estate and interest (whether in your own capacity or as trustee of a trust), which charge secures to us the payment of all amounts payable or remaining unpaid, now or in the future, by you to us. You acknowledge that we may lodge a caveat against the title to any such land to protect our rights under this clause.
20. Subject to any legislation to the contrary:-
 - (a) to the full extent permitted by law, all express and implied terms, conditions and warranties other than the ones set out in this schedule are excluded;
 - (b) to the full extent permitted by law, we are not liable for any injury to or death of any person or loss (including loss of profits or consequential loss) or damage to property arising from any act or omission by you, us or any other person (including any loss or damage arising from our negligence); and
 - (c) you indemnify us against:-
 - (i) any claims made against us by any third party in respect of any loss, damage, death or injury as is set out in 20(b); and
 - (ii) all losses and expenses which we may suffer or incur due to your failure to observe fully your obligations under the Agreement.
21. We will not be responsible for non-delivery or delay in delivery of any goods due to any cause beyond our reasonable control, notwithstanding that the cause may be operative at the time of entering the contract of sale. Where such non-delivery or delay occurs, we may deliver the goods not delivered or delayed at any subsequent time and you must accept and pay for them.
22. When we are to perform a contract of sale by more than one delivery, our failure to make any one or more of these deliveries will not operate as a repudiation of the contract by us in respect of all or any of the other deliveries.
23. Where we give a date of intended delivery, this will be subject to the goods ordered being available and our being able to make the delivery on that date.
24. If you fail to keep the goods in the condition they were in when delivered, you will be deemed to have accepted them as delivered.
25. Our agreement to continue to deliver or sell goods to you is always conditional upon our being satisfied about your ability to pay and comply with these terms and conditions. If we cease to be so satisfied we may suspend and/or terminate deliveries and shall not be liable in any way for any claim, damage, expense or cost suffered by you.
26. Should any part of these terms and conditions be held to be void or unlawful, these terms and conditions will be read and enforced as if the void or unlawful provisions have been deleted.
27. Our rights under these terms and conditions are in addition to and do not limit whatever other rights or remedies we may have in law or equity.
28. The Agreement and each contract of sale between you and us will be governed by the laws of the State of Western Australia.
29. Privacy Statement:-
 - 29.1 This privacy statement relates to the collection, use, storage and disclosure of personal information about you and each guarantor (if any) in all communications with us.
 - 29.2 We collect personal information about you and each guarantor (if any) now and in the future for:
 - (a) the primary purpose of assessing and processing your credit application and preparing the necessary documentation to implement to the credit facility; and
 - (b) the related purposes of:
 - (i) administering the credit facility and performing administrative tasks;
 - (ii) managing the products we provide to you;
 - (iii) unless you ask us not to, providing you with information about other products or services which we consider may be of benefit to you; and
 - (iv) managing our internal business operations.
 - 29.3 If you or a guarantor (if any) do not provide the personal information sought from time to time, it may mean that we cannot supply you with our products on a credit basis.
 - 29.4 We may disclose your or any guarantor's personal information (as necessary):
 - (a) to our agents, contractors or third party service providers that provide financial, administrative, accounting, auditing, legal or other services in connection with the operation of our business;
 - (b) to credit providers for credit related purposes such as credit-worthiness, credit rating, credit provision and financing in accordance with the law; and
 - (c) to credit-reporting and fraud-checking agencies in accordance with the law;
 - (d) to your representatives (eg your authorised representatives or legal advisers) with your consent;
 - (e) to our related companies;
 - (f) where the law requires or permits us to do so (eg to law enforcement agencies); or
 - (g) in other circumstances if you consent.
 - 29.5 Under Australian privacy laws, you or any guarantor will be entitled to request access to personal information held by us about you or the relevant guarantor (as the case may be) and to ask us to correct this information where you or the relevant guarantor believe it is incorrect or out of date. No fee will be charged for an access request. You may be charged the reasonable expenses incurred in giving you any information you have requested (eg searching and photocopying costs).
 - 29.6 If you or any guarantor would like to access personal information which we hold or to obtain more information about each of your rights or our privacy policy, please contact the Privacy Officer, WESBEAM Pty Ltd 190 Pederick Road, Neerabup WA 6031 Phone: 08 9306 0400 Fax: 08 9306 0444 E-mail: wesbeam@wesbeam.com. By completing this application you agree to us collecting, using, storing and disclosing personal information about you, and each guarantor (if any) agrees to us collecting, using, storing and disclosing personal information about them, in accordance with this privacy statement.
 - 29.7
30. References in this Schedule to:
"the Agreement" means each agreement between WESBEAM Pty Ltd, the customer and the guarantor (if any) of which these terms and conditions are expressed to form part; and
"these terms and conditions" means the terms and conditions set out above as amended or supplemented from time to time in accordance with the Agreement.
31. To the extent that these terms and conditions, or any provision of these terms and conditions, is inconsistent with the terms and conditions contained on a Tax Invoice from us to you, these terms and conditions will prevail.