



CREDIT APPLICATION FOR A BUSINESS ACCOUNT

BUSINESS CONTACT INFORMATION			
Title:			
Company name:			
ABN/ACN:			
Phone:	Fax:	E-mail:	
Registered company address:			
City:		State:	Post Code:
Date business commenced:			
Sole proprietorship:	Partnership:	Corporation:	Other:
BUSINESS AND CREDIT INFORMATION			
Primary business address:			
City:		State:	Post Code:
How long at current address?			
Telephone:	Fax:	E-mail:	
Bank name:			
Bank address:		Phone:	
City:		State:	Post Code:
Type of account	Account number		
Savings			
Checking			
Other			
BUSINESS/TRADE REFERENCES			
Company name:			
Address:			
City:		State:	Post Code:
Phone:	Fax:	E-mail:	
Type of account:			
Company name:			
Address:			
City:		State:	Post Code:
Phone:	Fax:	E-mail:	
Type of account:			
Company name:			
Address:			
City:		State:	Post Code:
Phone:	Fax:	E-mail:	
Type of account:			
NOTICE DETAILS			
Supplier's contact details for notice			
Customer's contact details for notice			
ACCOUNT TERMS (TO BE COMPLETED BY THE SUPPLIER)			
Fees	The total price payable by the Customer for the Product(s) Ordered by the Customer as provided by the Supplier upon acceptance of an Order, including any Delivery Fees and other costs as applicable.		

Payment Terms	1. The Supplier will invoice the Customer upon acceptance of an Order. 2. The Customer must pay each invoice within thirty (30) days after the end of the month in which the Order is received.	
Credit Manager		
Credit Limit		
Delivery	1. Orders will be dispatched to the Customer's nominated Delivery Address. 2. Products in a single Order may be dispatched at different times.	
SIGNATURES		
Title: Date:		Title: Date:



JEC Trading Pty Ltd T/A Precero
TERMS OF SALE – CREDIT ACCOUNT

The following Terms of Sale – Credit Account (**Credit Agreement**) shall apply to the sale of Products by the Supplier to the Customer. This Credit Agreement supersedes and replaces any previous agreement between the Supplier and the Customer in respect of its subject matter.

1 Credit Application

1.1 The Customer:

- (a) represents and warrants that the information provided in the Credit Application is true and correct in all respects;
- (b) irrevocably authorises the Supplier to make such enquiries and receive such information on an ongoing basis from:
 - (i) credit reporting agencies, including obtaining credit reports relevant to the Customer; and
 - (ii) business and trade references listed in the Credit Application; and
 - (iii) otherwise from anyone as the Supplier may reasonably consider necessary, for the purpose of assessing the Credit Application.

1.2 If the Credit Application is refused or withdrawn, then payment shall be in accordance with Supplier's requirements (for supply of Products to the Customer) from time to time.

1.3 The Customer, jointly and severally (if applicable), charges all Real Property, both present and future, as a guarantee for performance of its obligations under this Credit Agreement.

2 Ordering

2.1 Upon acceptance of the Credit Application, the Customer may place Orders from time to time, by contacting the Supplier via email, telephone or facsimile, using the contact details provided by the Supplier from time to time.

2.2 Upon receipt of an Order, the Supplier (acting reasonably) will endeavour, within a commercially reasonable time, to:

- (a) accept an Order;
- (b) reject an Order; or
- (c) request further information regarding an Order and the Customer must provide such information as soon as practicable. Following receipt of the requested information, the Supplier will endeavour to respond to the Order from the date of receipt of the further information in accordance with this clause 2.2.

2.3 If the Supplier's acceptance of an Order under clause 2.2 would cause the total aggregate sum owed by the Customer in respect of all its outstanding Order to exceed the Credit Limit, the Supplier may:

- (a) refuse the Order until such time as the Customer's account is paid down to the Supplier's satisfaction; or
- (b) require part or full payment of the Order as a condition of acceptance.

- 2.4 The Supplier, at its discretion, may alter the Customer's Credit Limit for any reason (including to meet the Customer's then buying needs). The Supplier will notify the Customer of any alteration in the Credit Limit by notice in writing.

3 Pricing

- 3.1 Notwithstanding any prior acknowledgment by the Supplier of the price of a Product, the prices specified for that Product may (at the Supplier's option) be subject to alteration to reflect the Supplier's prices and charges at the time of the Supplier's acceptance of an Order under clause 2.2.
- 3.2 The Customer shall be liable for any variations in the invoice or price as a consequence of currency fluctuations, taxes, customs duty or other imposts, and any such variation shall be applied to the Customer's account.

4 Payment

- 4.1 Unless otherwise agreed in writing by the Supplier, the Supplier shall invoice, and the Customer must pay the Fees for all Orders and Products as set out in the Account Terms.
- 4.2 If there is a dispute about whether a Fee, invoice, refund, or other amount contemplated by this agreement is payable, the Customer must refer the dispute for resolution under clause 21. For the absence of doubt, the Customer must pay all invoices and other sums due and owing to the Supplier as and when due and has no right of withholding or set-off of any payment.
- 4.3 If the Customer does not notify the Supplier of any dispute relating to any invoice or Fee within 7 days of receiving an invoice, the Customer is deemed to have accepted the invoice and waived any rights to dispute the invoice under clause 4.2.
- 4.4 Unless otherwise agreed to by the Supplier, the only accepted means of paying invoices will be by cash, bank cheque, COD or electronic funds transfer, all without any deduction.
- 4.5 Where payments are made that are not made in accordance with clause 4.4 (**abnormal payment**), the Customer will also pay the Supplier an administration fee of 2% of the amount so paid. That fee is agreed to be the Supplier's genuine pre-estimate of its liquidated cost of processing that abnormal payment. This administration fee is payable at the same time as the account to which it relates is due.
- 4.6 If at any time the Customer receives notice from the Supplier regarding a change in payment method (whether upon an invoice or otherwise), the Customer must obtain oral confirmation of the new payment details from the Supplier's Credit Manager, prior to making any further payment to the Supplier. The Supplier will not be liable for any loss suffered by the Customer from making payment to any incorrect payment details, and, should the Customer make payment to any incorrect account for any reason, the Supplier remains entitled to payment of all outstanding monies in full despite the Customer's incorrect payment.

5 GST

- 5.1 Any expression used in this clause and which is defined in the *A New Tax System (Products and Service Tax) Act 1999* (Cth) has the same meaning in this clause 5.
- 5.2 With the exception of any amount payable under this clause 5, unless otherwise expressly stated all amounts stated to be payable by the Customer under this Credit Agreement are exclusive of GST.
- 5.3 If GST is imposed on any supply made under or in accordance with this Credit Agreement, the recipient of the Taxable Supply must pay to the supplier an additional amount equal to the GST payable on or for the Taxable Supply. Payment of the additional amount will be made at the same time as payment for the Taxable Supply is required to be made in accordance with this document, subject to the provision of a tax invoice by the supplier to the recipient.

6 Delivery

- 6.1 Products will be delivered or deemed to be delivered,
- (a) if delivered, when they arrive at the Delivery Address nominated by the Customer; and
 - (b) if collected by the Customer, at the time when the Products are ready for collection at the Supplier's Premises.
- 6.2 The Customer shall pay to the Supplier packing, crating and any Delivery Fee, as notified by the Supplier in the relevant invoice, in accordance with clause 4.
- 6.3 The Customer authorises the Supplier to deliver products to the Delivery Address and to leave the products at such place whether or not any person is present to accept delivery.
- 6.4 The Supplier shall not be liable on any basis whatsoever for loss suffered by the Customer after delivery under clause 6.1.
- 6.5 Where Products are delivered by or on behalf of the Supplier, the Supplier (or its nominated carrier) shall not be obliged to obtain a signed receipt or other acknowledgment from any person at the Delivery Address. However, if a signed receipt or other acknowledgment is obtained from someone reasonably believed by the Supplier (or its nominated carrier) to be authorised by the Customer to sign or otherwise take delivery at the Delivery Address, then such signed receipt or other acknowledgement shall be conclusive evidence of the Customer's acceptance of the Products delivered.
- 6.6 The Customer shall not be relieved of any obligation to accept or pay for Products by reason of any delay in delivery.
- 6.7 The Supplier reserves the right to:
- (a) deliver Products by instalments and each instalment shall be deemed to be sold under a separate contract. Failure to deliver any instalment, or deliver any instalment on time shall not entitle the Customer to repudiate the terms of this Credit Agreement in whole or in part; and
 - (b) make a reasonable charge for storage:
 - (i) if delivery instructions are not provided by the Customer, within 14 days of a request by the Supplier for such information;
 - (ii) if delivery is refused or unsuccessful, from the date of attempted delivery until the earlier of the date delivery is accepted, or the date the Order is cancelled by the Supplier and the Products returned to the Supplier; or
 - (iii) if the Customer does not attend to collection of the Products within 14 days of the Products being made available for collection from the Supplier's Premises, from the date the Products were made available for collection until the earlier of the date the Products are collected, or the date the Order is cancelled by the Supplier.

7 Default

- 7.1 If there is:
- (a) any default or failure by the Customer in making any payment due to the Supplier of any monies owing by the Customer under this Credit Agreement; or
 - (b) an Insolvency Event of the Customer; or
 - (c) a breach by the Customer of any of this Credit Agreement,

then all monies payable by the Customer to the Supplier shall, at the Supplier's sole election, become immediately due and payable notwithstanding the due date for payment shall not have expired, and, without prejudice to any other rights it may have, the Supplier may also:

- (d) withdraw any credit facilities which may have been extended to the Customer and require cleared payment in full for any future Orders;
- (e) withhold any further deliveries of Products;
- (f) in respect of Products already delivered to the Customer's Delivery Address, to recover and resell the Products for its own benefit;
- (g) recover from the Customer the cost of materials or goods acquired for the purpose of future deliveries;
- (h) set off against any money owing to the Customer amounts owed to the Supplier by the Customer on any account whatsoever; and / or
- (i) seek to enforce any guarantee provided under clause 1.3, and the Customer will sign all documents and do all things that the Supplier may reasonably require to further secure to the Supplier the amount of any default of payment.

8 Interest

- 8.1 If the Customer does not pay the Supplier any monies as and when due, the Customer shall pay interest on the monies due, charged and compounding on a daily basis, at the Interest Rate from the due date for payment until the actual date of payment (including the date of any judgment).
- 8.2 The Supplier may debit the Customer's account, and invoice the customer, any accrued interest monthly or at such other times as chosen by the Supplier at its sole discretion.
- 8.3 In the event of default of payment by the Customer, the Supplier may also recover from the Customer, as a debt due and owing and payable on demand:
 - (a) any charges, fees, or expenses (including dishonoured cheque fees) levied on the Supplier by:
 - (i) any banker or other credit provider whose banking or credit card facilities are utilised by the Customer for paying the Supplier any amounts on any account; or
 - (ii) any government agency;
 - (b) any other expenses payable of, and incidental to, the performance or enforcement of or any litigation:
 - (i) on this Credit Agreement; or
 - (ii) any Credit Application or any security documents signed by the Customer or any guarantor; and
 - (c) legal costs (on a full indemnity basis); and
 - (d) any other costs incurred by the Supplier in respect of the collection and receipt of payment from the Customer.

9 Term and Termination

- 9.1 The Credit Agreement:
 - (a) commences on the date of the Supplier's acceptance of the Credit Application; and

- (b) continues until termination of the Credit Agreement in accordance with this clause 9.
- 9.2 The Supplier may terminate this Credit Agreement, by notice in writing, immediately (or such longer term determined by the Supplier and specified in the notice), if the Customer:
- (a) commits a material breach of an essential or fundamental term of this agreement that:
 - (i) has a material and adverse effect on the Supplier; and / or
 - (ii) is incapable of remedy;
 - (b) commits a breach of this agreement (other than a breach under clause 9.2(a)) and fails to remedy the breach within 30 days of receiving notice from the Supplier requiring that the Customer remedy the breach;
 - (c) breaches any Law, or, in the Supplier's reasonable opinion, engages in any act or omission which may constitute breach of Law, in respect of any Product or the Customer's performance of this agreement; or
 - (d) experiences an Insolvency Event.
- 9.3 Either party may terminate this Credit Agreement for convenience on 30 days' notice.
- 9.4 The Customer expressly waives any rights it may have to terminate this agreement other than as contemplated by clause 9.3.
- 9.5 Neither party is entitled to any compensation for the other party's termination of this agreement save as expressly provided under this agreement.
- 9.6 Notwithstanding termination or expiry of this Credit Agreement, if, following the date of expiry or termination:
- (a) the Customer places an Order;
 - (b) the Supplier accepts that Order on the basis of extending a credit facility; and
 - (c) no other agreement in respect of purchasing Products is in force or effect between the parties as at the time the Order is placed and accepted,
- the terms of this agreement shall apply in respect of that Order.

10 Property and Risk

- 10.1 In this clause 10, **proceeds, security interest, purchase money security interest, financing statement, PPSA Information** and **financing change statement** have the respective meanings given to those terms by the PPSA.
- 10.2 Title in the Products purchased, unless otherwise agreed in writing between the parties, shall pass to the Customer upon payment by the Customer for that Product and all other money owed by the Supplier.
- 10.3 The Supplier and Customer intend this clause 10 to secure the purchase price of the Products and create a purchase money security interest in the Products. This Credit Agreement may also create a security interest in the Products that is not a purchase money security interest.
- 10.4 The Products are at the Customer's risk, as and from:
- (a) if made available for collection, the time the Products are collected by the Customer or nominee; or
 - (b) if delivered, the time the Products are dispatched from the Supplier's Premises for delivery,

and the Customer must insure the Products and keep them insured as and from such time.

- 10.5 While the Products remain the property of the Supplier, the Customer must:
- (a) not sell, lease, or otherwise dispose of the Products; or
 - (b) ensure that the Products are identifiable, kept separate, and are properly stored, protected and insured.
- 10.6 While the Products remain the property of the Supplier, the Customer must not grant or allow another to hold a security interest in:
- (a) the Products; or
 - (b) the proceeds of the Products.
- 10.7 If the Customer fails to comply with any obligation under this Credit Agreement, then without limiting the remedies available to the Supplier:
- (a) upon request by the Supplier, the Customer must return the Products on which there are outstanding amounts owing; and / or
 - (b) the Supplier may retain, sell or otherwise dispose of the Products.
- 10.8 Each party must keep the PPSA Information in the strictest confidence and not disclose that information.
- 10.9 Each party must not request PPSA Information or authorise disclosure of the PPSA Information.
- 10.10 Despite clauses 10.8 and 10.9, if a party is required to disclose PPSA Information, that party must give all available notice to the other party to allow the other party to:
- (a) legally challenge the required disclosure; and
 - (b) take all available steps to keep that PPSA Information confidential.

11 Return of Products

- 11.1 Subject to clause 14, the Supplier will only accept the return of Products on the conditions set out in this clause 11;
- (a) the Customer must not return Products to the Supplier without the Supplier's prior consent;
 - (b) to the extent that the Products do not comply with the quantity or description of the Customer's Order, the Supplier will accept the return of Products and provide a credit against such returns to the Customer provided that:
 - (i) the Customer has inspected the Products promptly upon their delivery;
 - (ii) within 14 business days of the delivery of such Products to it the Customer then gives written notice to the Supplier for a request for a credit which details all alleged non-compliances. This request must also specify the original invoice number in respect of the Products as proof of their purchase; and
 - (iii) the Supplier is then satisfied as to the accuracy of the claim in that notice;
 - (c) the Supplier, at its discretion, may accept the return of Products and provide the Customer with a credit for them where the reason for their return is Customer error in:
 - (i) ordering the type/style/model of the Products; or

- (ii) selection of the Products for their suitability for the desired purpose; or
 - (iii) the quantity of the Products ordered, provided that the Products:
 - (A) are returned to the Supplier by the Customer within 30 days of the delivery date; and
 - (B) the request for return of the Products specifies the original invoice number in respect of those Products; and
 - (C) the Customer pays the Supplier a minimum restocking fee of 15% of the credit claimed for the Products to be returned; and
 - (d) the Products are returned in original packaging, in brand new and unused condition. The Supplier may deduct from any refund or credit a reasonable reduction reflecting the reduction in market value of the Products due to the condition in which they are returned.
- 11.2 The Customer is not entitled to return any Products pursuant to this clause 11:
- (a) which have been custom made, custom cut, custom processed or custom acquired for the Customer;
 - (b) where the Products are not in brand new or unused condition with undamaged packaging as at the date of their proposed return; or
 - (c) where the Products have been damaged due to any act or omission of any person other than the Supplier or its nominated delivery agent.
- 11.3 Notwithstanding clauses 11.1 and 11.2, where the Customer is entitled to a remedy under the Australian Consumer Law, the Supplier will provide (and the Supplier's liability is limited to) the relief in clause 12.3

12 Limitation of Liability

- 12.1 To the extent permitted by Law, the Supplier disclaims all warranties, representations, or guarantees, of merchantability, fitness for purpose, quality and freedom from defects or errors, compliance with standards, workmanship, care, or skill.
- 12.2 The Supplier's liability is limited to:
- (a) for a Product, the purchase price of the Product; or.
 - (b) for an Order, the total amount payable for that Order.
- 12.3 To the extent that any guarantee or warranty under the Australian Consumer Law is read into this Credit Agreement, to the extent permitted by Law, the Supplier's liability for failure to comply with any such guarantee or warranty, is limited to one or more of the following, at the election of the Supplier,
- (a) where the Supplier has supplied goods:
 - (i) replacing the goods or supplying equivalent goods;
 - (ii) repairing the goods;
 - (iii) paying the cost of replacing the goods or of acquiring equivalent goods; or
 - (iv) paying the cost of having the goods repaired.
 - (b) where the Supplier has supplied services:
 - (i) supplying the services again; or

- (ii) payment of the cost of having the services supplied again.

- 12.4 Neither party will be liable to the other whether in contract, tort (including negligence) or otherwise in connection with this Credit Agreement, for loss or damage to the extent that the other party (or the other party's personnel) contributed to the loss or damage.
- 12.5 To the extent permitted by Law, neither party will be liable to the other party for any loss of profit, loss of revenue, loss of anticipated profit, loss of opportunity, or any other indirect or consequential loss not arising as a natural consequence of a breach or other event giving rise to liability of a party, suffered or incurred by the other party whether in contract, tort (including negligence) or otherwise in connection with this Credit Agreement.
- 12.6 The Customer must use reasonable steps to prevent, minimise, and mitigate, any actual or anticipated loss. The Supplier will not be responsible for any loss, damage or expenses to the extent that you:
- (a) contributed to the loss; or
 - (b) could have avoided or reduced the amount of the loss, damage or expense, by taking reasonable steps to mitigate its loss.

13 Manufacturer's warranty

- 13.1 The Customer may be entitled to a manufacturer's warranty, to the extent applicable. The Supplier does not make any representations or warranties regarding any applicable manufacturer's warranty.
- 13.2 If the Customer requests, the Supplier will assist in obtaining information regarding any applicable warranty from the relevant manufacturer.

14 Fitness for Purpose

- 14.1 The Customer agrees that it does not rely on the skill or judgement of the Supplier in relation to the suitability of any Products for a particular purpose. Any advice, recommendation, information or assistance provided by the Supplier is provided without any liability by the Supplier whatsoever.

15 Intellectual Property Rights

- 15.1 The Customer acknowledges and agrees that nothing in this Credit Agreement grants it any Intellectual Property Rights in the Products or any other Intellectual Property Rights of the Supplier (including any trade marks).
- 15.2 In respect of any trade mark owned by or licensed to the Supplier, the Applicant must not (and must not authorise any third party to):
- (a) use or trade under the trade mark;
 - (b) alter or deface any reproduction of the trade mark in any way;
 - (c) use a mark which is substantially identical or deceptively similar to the trade mark; or
 - (d) do or omit to do anything which may disparage or damage the goodwill or reputation of the Supplier or the trade mark.

16 Warranties

- 16.1 The Customer represents and warrants that:
- (a) they are authorised to enter, and comply with its obligations under, this Credit Agreement and has taken all necessary action to authorise their execution and performance;

- (b) the obligations are valid and binding and are enforceable against them;
- (c) they holds all authorisations, permits, and licences required under any Law or from any third party to perform their obligations;
- (d) they will comply on an ongoing basis with the requirements of all Laws of any kind in performing its obligations; and
- (e) all drawings and specifications and other design information provided to the Supplier for the manufacture of special orders or tooling are accurate and correct in all respects and do not infringe upon the Intellectual Property Rights of any third party.

17 Confidentiality

17.1 Each party must:

- (a) keep the Confidential Information of the other party confidential and secure;
- (b) comply with the other party's reasonable directions regarding the Confidential Information; and
- (c) return the Confidential Information to the other party on:
 - (i) the termination of this Credit Agreement; or
 - (ii) the reasonable request of the other party.

17.2 Each party may only:

- (a) use the other party's Confidential Information for the purposes of this Credit Agreement; and
- (b) disclose the other party's Confidential Information to a third party if:
 - (i) the third party must know for the purposes of this Credit Agreement (but only to that extent); and
 - (ii) the third party has signed a confidentiality undertaking like that contained in this Credit Agreement or required by the other party.

17.3 This clause does not apply to:

- (a) information independently created, or known, by a party (whether alone or with a third person);
- (b) information that is public knowledge (except because of a breach of confidentiality referred to in this Agreement); and
- (c) information required to be disclosed by Law (including a relevant stock exchange).

18 Privacy

18.1 Each party shall maintain all Personal Information (as defined in the *Privacy Act 1988* (Cth)) collected by it under or in relation to this Credit Agreement in accordance with their respective obligations under the *Privacy Act 1988* (Cth).

19 Force Majeure

19.1 Save for an obligation to pay monies, neither party will be:

- (a) in breach of this Credit Agreement as a result of; or
- (b) liable for,

any failure or delay in the performance of its obligations under this Credit Agreement to the extent that such failure or delay is wholly or partially caused, directly or indirectly, by an event of Force Majeure, provided the party takes reasonable steps to prevent or mitigate the effect of the event of Force Majeure.

- 19.2 For the absence of doubt, this clause 19 applies only for the duration of the event of Force Majeure and does not operate as a general waiver in respect of the performance of a party's obligations under this agreement.

20 Trust and Trustees

- 20.1 Where the Customer is a trustee, the Customer:

- (a) agrees to produce a stamped copy of the trust deed (with all amendments) if and when requested by the Supplier; and
- (b) warrants that it has full power and authority to enter into this Credit Agreement and shall be bound by this Credit Agreement.

- 20.2 If clause 20.1 applies, the Customer enters into this Credit Agreement both personally and as trustee, irrespective of whether or not it discloses to the Supplier that it is a trustee at the time of entering into this or any other credit agreement with the Supplier.

21 Dispute Resolution

- 21.1 A party may not commence legal proceedings against the other party (except for urgent interlocutory relief) unless the party has complied with this clause 21.

- 21.2 If a dispute arises in connection with this Credit Agreement, the disputing party must give notice of the dispute to the other party, and each party must use all reasonable endeavours to resolve the dispute.

- 21.3 If the dispute remains unresolved 14 days after notice under clause 21.2, the parties (acting reasonably) may agree to mediate the dispute before a person agreed to by the parties, or if no person is agreed, a mediator nominated by the President of the Queensland Law Society or the President's nominee.

- 21.4 Unless otherwise agreed between the parties:

- (a) mediation will take place in Brisbane, Australia;
- (b) the parties may appear at the mediation by video link if necessary; and
- (c) the parties will be entitled to legal representation.

- 21.5 Each party will use all reasonable endeavours to resolve the dispute through mediation as soon as practicable including, but not limited to, providing the mediator with all information relevant to the dispute.

- 21.6 Each party must bear its own costs of complying with this clause 21 and bear equally the mediator's costs.

- 21.7 If the dispute remains unresolved 30 days after the appointment of the mediator, a party that has complied with this clause 21 may terminate the dispute resolution process by giving notice to the other party in writing.

- 21.8 If a party breaches this clause 21, the other party need not comply with this clause.

22 Laws to govern provisions of Agreement

- 22.1 Unless varied by notice in writing by the Supplier this Credit Agreement shall be governed by and construed in accordance with the laws of Queensland.

23 Notice

- 23.1 Either party make give any written notice required by this Credit Agreement electronically or by post as set out in the Notice Details.
- 23.2 If the Customer gives written notice to the Customer by post, unless contrary is proved, the notice shall be taken as delivered when received by the Supplier.
- 23.3 If the Supplier gives written notice to the Supplier by post, unless the contrary is proved, the notice will be taken as delivered on the second business day following posting.
- 23.4 Invoices and statements are deemed received by the Customer:
- (a) on the second business day after posting by ordinary prepaid post; or
 - (b) on the next business day, if sent by email.

24 Severance

- 24.1 In the event that the whole or any part or parts of any provisions in this agreement should be held to be void or unenforceable in whole or in part such provision or part thereof shall to that extent be severed from this Credit Agreement but the validity and enforceability of the remainder of this Credit Agreement shall not be affected.

25 Sub-contracting

- 25.1 The Supplier reserves the right to sub-contract the manufacture and/or supply of the Products or any part thereof to a third party.

26 Certificate

- 26.1 A statement in writing signed by the Supplier's Credit Manager stating the monies payable by the Customer to the Supplier shall be prima facie evidence of the amounts so payable.

27 Definitions

The following definitions apply to this Credit Agreement:

Account Terms means the account terms as set out in the Credit Application.

Australian Consumer Law means the Australian Consumer Law as contained in Schedule 2 of the *Competition and Consumer Act 2010* (Cth).

Confidential Information means any information belonging to a party which that party claims as confidential to itself or which is determined, or ought to be determined, by the other party (acting reasonably) as being confidential, including, without limitation, financial information, technical information, and other proprietary information.

Credit Agreement means this agreement, which operates as an agreement between the Customer and the Supplier upon acceptance of the Credit Application.

Credit Application means an application for credit for a business account submitted by the Customer to Precero attached to this Credit Agreement.

Credit Limit means the credit limit as set out in the Credit Application.

Credit Manager means the Supplier's credit manager as set out in the Credit Application

Customer means a person whose Credit Application is accepted by the Supplier and named on the Credit Application.

Delivery Address means the address to which the Product(s) are to be delivered, as stated on your Order.

Delivery Fee means a fee for the delivery of the Product(s).

Fees means the fees as set out in the Credit Application.

Force Majeure means an extraordinary and unforeseeable event beyond the reasonable expectation or control of the parties to this Credit Agreement including, but not limited to:

- (a) act of God, earthquake, cyclone, fire, explosion, flood, landslide, lightning, storm, tempest, drought or meteor;
- (b) pandemic, epidemic, virulent infection, or other outbreak of adverse health issues, or any quarantine, lock-down, or restriction of movement or travel as a result of any of the foregoing;
- (c) war (declared or undeclared), invasion, act of a foreign enemy, hostilities between nations, civil insurrection or militarily usurped power;
- (d) act of public enemy, sabotage, malicious damage, terrorism or civil unrest;
- (e) confiscation, nationalisation, requisition, expropriation, prohibition, embargo, restraint or damage to property by or under the order of any government or government authority; and
- (f) strikes, blockades, lock out or other industrial disputes.

Insolvency Event means any of the following events concerning a party:

- (a) an administrator, liquidator, receiver, receiver and manager or other controller (as defined in the *Corporations Act 2001* (Cth)) is appointed to, or over, any of the property or undertaking of the party;
- (b) the party becomes bankrupt;
- (c) a controlling trustee is appointed to, or over, any of the property or undertaking of the party;
- (d) the party or the party's property or undertaking becomes subject to a personal insolvency arrangement under part X *Bankruptcy Act 1966* (Cth) or a debt agreement under part IX *Bankruptcy Act 1966* (Cth);
- (e) the party is unable to pay its debts when they become due and payable or is presumed to be insolvent under the *Corporations Act 2001* (Cth) or *Bankruptcy Act 1966* (Cth);
- (f) the party ceases to carry on business; or
- (g) any event happens in Australia or any other country or territory in respect of a party that is similar to any of the events or circumstances referred to in this definition.

Intellectual Property Rights means all industrial and intellectual property rights throughout the world including all rights in association with copyright, trade marks (whether registered or not), patents, patent applications, eligible circuit layouts, moral rights, service marks, trade names, registered designs, unregistered design rights, know how, trade secrets, domain names, internet addresses and confidential information.

Interest Rate means:

- (a) 16%; or if this ceases to be enforceable by Law,
- (b) 2% above the current unsecured commercial lending rate of the Commonwealth Bank of Australia.

Law means any written rule or collection of rules, including, but not limited to any statute, regulation, order or rule, any government ordinance or by-law, any governmental agency's rule, regulation or determination, and any form of custom or policy recognised and enforced by judicial decision.

Notice Details means the notice details set out in the Credit Application.

Order means a request by the Customer to purchase Products from Precero under this Credit Agreement.

party means either the Customer or the Supplier, and **parties** means both of them.

PPSA means the *Personal Property Securities Act 2009* (Cth).

Products means any goods supplied by the Supplier.

Real Property includes land, estates and interests owned by the Customer.

Premises means the Supplier's premises at 88-90 Gordon St, Garbutt, Queensland 4814 or such other location(s) from which the Supplier may conduct business or supply Products, from time to time.

Supplier means JEC Trading Pty Ltd T/AS Precero ABN 51167440333 or any of its subsidiary or associated companies or their respective assigns.

28 Interpretation

- 28.1 If the due date for any obligation is not a business day, the due date will be the next business day.
- 28.2 All currency amounts are in Australian dollars.
- 28.3 Headings are provided for convenience and do not affect the interpretation of the documents making up this Credit Agreement.
- 28.4 The words "include", "includes" and "including" must be read as if followed by the words "without limitation".
- 28.5 The singular includes the plural and the plural includes the singular.
- 28.6 If a word or phrase is defined its other grammatical forms have corresponding meanings.
- 28.7 Agreements, representations and warranties made by two or more people will bind them jointly and severally.
- 28.8 A reference to any legislation includes any consolidation, amendment, re-enactment or replacement of legislation.
- 28.9 A person includes the person's executors, administrators and permitted novatees and assignees.
- 28.10 All the rights, immunities and limitations of liability contained herein shall continue to have their full force and effect in all circumstances notwithstanding any breach of any term or condition hereof or any collateral agreement by the Supplier and notwithstanding that the Products have been delivered as directed by the Customer or the agreement having expired or been terminated.
- 28.11 No agent or employee of the Supplier or any Customer has the authority to waive, modify, vary or amend Credit Agreement unless the Supplier expressly approves such waiver, modification, variation or amendment in writing.
- 28.12 No rule of construction will apply to a provision of a document to the disadvantage of a party merely because that party drafted the provision or would otherwise benefit from it;

28.13 those denoting a given gender shall include all other genders and those denoting natural persons shall include corporations.