

## Customer Credit Application for Trade Account

INFORMATION SUPPLIED WILL BE TREATED AS STRICTLY CONFIDENTIAL

### Business Contact Information

Contact name:		Trading as:	
ABN	ACN	Date of Incorporation	
Address:			
City:		State:	Postcode:
Sole trader: <input type="checkbox"/>	Partnership: <input type="checkbox"/>	Limited liability: <input type="checkbox"/>	Other: <input type="checkbox"/>
Trading address:			
City:		State:	Postcode:
Postal address:			
City:		State:	Postcode:
Phone:	Mobile:	E-mail:	
Purchasing Officer:		Phone:	E-mail:
Accounts Payable:		Phone:	E-mail:
Monthly Credit Limit required \$			

### Bank Details

Bank Name:	BSB:	A/C NO.:
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### Business/Trade References (Please Supply Two Major Trade References)

Company name:		Company name:	
Contact name:		Contact name:	
Address:		Address:	
City:	Postcode:	City:	Postcode:
Phone:		Phone:	
E-mail:		E-mail:	

### Full Name of Proprietors/Partners/Directors Home Address and Phone

1.Name:	Address:	PH:
2.Name:	Address:	PH:
3.Name:	Address:	PH:

**Agreement**

1. All goods delivered to the applicants are under the protection of retainer ship title and they remain Machter Autoparts P/L's property until they are fully paid. Refused or returned merchandise are subject to 15% restocking fee plus freight. Goods returned without original packaging will not be accepted.
2. Outward-damage claims must be lodged within 5 days of goods receipt.
3. I/We hereby agree to abide by the terms and conditions of Machter Autoparts Pty Ltd set out in page 4 -7, as over, and understand that in the event of this application being accepted all accounts must be paid strictly within the approved terms. We hereby authorize Machter Autoparts Pty Ltd to make such enquiries as are considered necessary to determine my/our credit worthiness and acknowledge and consent to your production of this authority to the above mentioned financial providers to assist your enquiries.
4. Machter Autoparts Pty Ltd has the right to charge interest at the rate of 1.5% per month on all overdue accounts based on your overdue amount, if we do not receive your payment by net 7 days after EOM. Buyer agrees that expenses and disbursements incurred in recovering any overdue payment including debt collection agency costs will be charged to buyer's account. The Seller reserves the right to make any changes in the specification of the Goods necessary to conform with any applicable safety or other statutory requirements or, where the Goods are to be supplied to the Seller's specification, which do not materially affect its quality or performance.

**Signatures**

Print Name:

Position:

Signature:

Date:

To be completed by directors/partners of the Applicant

To: Machter Autoparts Pty Ltd

In consideration of your having agreed at my/our request to supply goods/continue to supply goods and to provide credit and accommodation to the party named on the face of the account application ("debtor") I/we hereby jointly and severally agree with you as follows:

1. To be answerable and responsible to you for the due payment on demand by the said debtor and any related company for all such goods and services as you may heretofore have supplied or which you may hereafter from time to time at its request supply to it notwithstanding I/we shall not have notice of any neglect or omission on its part to pay for such goods and services according to the terms agreed on between you and it and thereby indemnify and agree to keep you indemnified from and against all loss and damage which you may sustain or incur for any reason or arising out of the supply of such goods or services.

2. That this agreement shall constitute a continuing guarantee to you for the whole debt which shall be contracted by the said debtor with you.

3. All dividends, compositions and payments received by you from the said debtor whether in liquidation or otherwise shall be taken and applied to you as payments in gross and my/our right to be subrogated to you in respect thereof shall not arise until you shall have received the full amount of all your claims against it and this guarantee shall be security to you for the payment of any ultimate balance which may remain due to you in respect to goods or services to be supplied to the said debtor as aforesaid.

4. You may at any time or times at your absolute discretion and without giving any notice whatsoever to me/us refuse further credit or supplies of goods or services to the said debtor and grant to it, or to any drawers, acceptors or endorsers of bills of exchange promissory notes or other securities received by you from it or on which it may be liable to you any time or other indulgence and compound with it or them respectively without discharging or impairing my/our liabilities under this guarantee.

5. That no changes whatsoever in the constitution of the debtor or any of them or any company shall impair or discharge my/our liability under this guarantee.

6. This guarantee shall be enforceable against me/us JOINTLY AND EACH OF US SEPARATELY notwithstanding that any negotiable or other securities referred to herein or to which it shall exceed or be applicable at the time of proceedings being taken against me/us or either of us on this guarantee be outstanding or in circulation. It is expressly declared that notwithstanding the fact that this instrument of guarantee may be intended to be executed and given by more than one person the same shall in fact be a valid and effectual instrument of guarantee binding against such person or persons notwithstanding the fact that any proposed or contemplated party shall not in fact subsequently execute the same.

7. In order to give effect to this guarantee I/we declare that you shall be at liberty to act as though I/we were the principal debtor and I/we and each of us hereby waive all or any of my/our right as surely which may at any time be inconsistent with any of the above provisions.

8. This guarantee shall be revocable at any time as to further transactions by one month's notice in writing given to you or you duly authorized agent by me/us in the case of death or my/our respective personal representatives. At the expiration of the said one month period my/our liability under this guarantee shall cease and determine so far as respects any liability which shall be incurred by the debtor after the expiration of such period except so far as any future liability shall arise out of some letter of credit draft cheque bill promissory note order authority contract or other engagement or transaction at the time current or outstanding.

9. That notwithstanding anything contained in this instrument and notwithstanding that the whole of any part of the moneys due by the debtor to you are or may be irrecoverable from the debtor by you (whether by reason of any legal limitation disability or incapacity of or affecting the debtor or be reason of any other fact or circumstance whatsoever and whether the transactions or any of them relating to such monies have been void ab initio or have been subsequently avoided and whether or not any of the matters of facts relating thereto have been or ought to have been within your knowledge) whereby such monies or any part thereof are not recoverably from me/us by you on the footing of a guarantee THEN and in such case I/we hereby as separate and additional liability under this instrument indemnify you in respect of such monies and as a principal debtor agree with you to pay you when demanded in writing a sum equal to the amount of such monies and the terms of this instrument shall mutatis mutandis apply as far as possible to this indemnity PROVIDED ALWAYS that the total amount payable by me/us shall not exceed the total amount to which I/we would otherwise have been liable under this instrument if the said monies were recoverable on the footing of the guarantee by you from the debtor.

10. That it is expressly declared that no sum of money which you may be obliged to pay or may be obliged to allow in account or may in fact allow in account to an administrator of the affairs of the debtors by reason of any provisions of Bankruptcy Act or the Corporations Act shall for the purpose of this guarantee be considered as discharging or diminishing my/our liability and this guarantee shall continue to apply as if the said sum had at all times remained owing by the debtor.

11. You shall be at liberty from time to time without further authority that these presents to debit and charge the account of the debtor with all costs charges and expenses legal or otherwise which you shall pay incur sustain or be put to in connection with the account of the debtor or this security or any other security in respect of the indebtedness of the debtor to you or the preparation completion and stamping hereof or the exercise or attempted exercise of any right power or remedy conferred on you under or by virtue hereof and the same shall be part of the monies hereby secured.

12. I/we agree and declare that this guarantee shall be construed according to the law of the State of NSW and that any proceedings in respect of any case or matter arising hereunder may be instituted heard and determined by a Court of competent jurisdiction at Melbourne or at such other place as you in your discretion may appoint and that such Court shall possess territorial jurisdiction to hear and determine any such proceedings. Further, this guarantee is deemed to be made at Melbourne.

13. In order to secure to you all monies payable or to become payable pursuant to this guarantee:

(a) All my/our right title estate and interest which I/we (and if more than one jointly and severally) have or may hereafter acquire in any freehold or leasehold property shall be force of the execution of the attached Application stand charged and is hereby so charged by me/us as beneficial owner(s) in your favour with the payment if all such monies payable or to become payable by me/us hereunder; and

(b) I/we hereby irrevocably make, nominate, constitute and appoint all and any of your Company Secretary and Credit Manager (by whatever title) as my/our attorney for the purposes of doing all such acts and things and executing all such documents necessary to enable you to register a non-lapsing caveat over any such freehold or leasehold property as aforesaid and in respect of any such default a Declaration of Default duly executed for and on your behalf of any of the said managers shall be deemed sufficient evidence of such default; and

(c) I/we further agree to be liable for and pay to you all legal costs on a solicitor and own basis to which you are put as a result of taking steps to protect, recover under and/or enforce in any way the charge(s) hereinbefore created consequent upon any such default.

14. This guarantee secures the repayment of all monies owed by the debtor whatsoever, and its terms are not to be read as confined or limited by reference to any other document or documents.

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Position/capacity: \_\_\_\_\_

Position/capacity: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

Witness signature: \_\_\_\_\_

Witness signature: \_\_\_\_\_

Witness name: \_\_\_\_\_

Witness name: \_\_\_\_\_

Witness address: \_\_\_\_\_

Witness address: \_\_\_\_\_

**OFFICE USE ONLY**

Approved by ..... Limits \$ ..... Date .....

## TERMS & CONDITIONS:

These are the terms and conditions on which Machter Autoparts (“we” or “us” or “our”) is willing to trade with you. These terms and conditions apply to each purchase order you place with us. Any variation to these terms and conditions must be in writing and signed by an authorised officer of (the “Company”).

### 1. Price & Description

The price and description of the product you may offer to purchase from us (“our product”) is described in our price list. All prices are expressed in Australian dollars. We may change the price list at any time without prior notice. Any description of our product is given by way of identification only and the use of that description does not constitute a sale by description.

### 2. Payment

If you have a pre-approved account limit with us, our terms are strictly as noted on invoices and statements, with time being of the essence.

These terms of payment also apply to any work we perform or service we provided to you on request which is separate from your purchase of product.

### 3. Privacy Act & Credit Reference Authorisation

3.1 You acknowledge and agree that we: (a) Have informed you that it may give information of the types set out in Section 18E (1) of the Privacy Act 1988 about you to a credit reporting agency (Section 18E(8)(c)). (b) May request and obtain a credit report from a credit reporting agency for the purpose of: - Assessing the your application for trade credit; - Assessing whether to accept the you or guarantor in respect of credit provided by us; - Collecting amounts that are overdue in respect of trade credit provided by us to you. (c) May use information obtained from any person, or body carrying on a business or undertaking involving the provision of information about the commercial creditworthiness of persons, that concerns the your commercial activities or commercial creditworthiness, for the purpose of assessing the your application for credit. (d) Has received the your authorisation to obtain any and all information it deems necessary from any source listed on your Credit Application Form. (e) May report your debts that 60 days or more have passed since the due date for payment to a credit reporting agency and ask them to record the default on your credit report. You hereby authorise each of the sources listed to supply us with such information necessary to assist in the consideration of your creditworthiness.

3.2 You expressly authorize to do all things described in clause 3.1 above.

### 4. Account Limit

Normally, we allow you to purchase and continue to purchase our product as long as the total of your account does not exceed your pre-approved account limit and you have provided us with three (3) satisfactory written trade references and/or a satisfactory trade or status report from a credit rating agency acceptable to us.

We may require fresh references/reports from time to time and additional information if you apply to increase your account limit.

If we perform work or provide a service to you separate from your purchase of product, our fee for providing such work or service is added to your account.

You agree that you will, if we request, also provide us further supporting documentation which may include (but is not limited to) any or all of the following:

- evidence that you have been incorporated for at least 12 months; and
- a copy of your audited Financial Statements (which must not be more than 12 months old).

In no circumstances are we obliged to accept any application for an increase in the limit of your account and we are not obliged to give you reasons for our decision.

If any account is not settled within our trading terms, you agree that, in addition to any other right we may have, we may suspend all sales and delivery of our product to you or close your account with us.

You acknowledge that we may decline your application to purchase our products if we are advised by our insurers that they will not grant us appropriate cover in relation to you.

### 5. Government Charges

The prices of our products listed in our price list are exclusive of GST. We will provide you with a tax invoice.

### 6. Delivery

Delivery takes place at the time our product passes into your or your agent’s exclusive physical control or when ownership of our products has passed to you, whichever is earlier.

Any date for delivery of our product indicated by us is an estimated date for delivery only. We will make all reasonable efforts to have the product delivered to you on the date agreed but we are under no liability for any loss or damage, however it arises, if the product is not delivered by that date.

We reserve the right to deliver any products you order from us by instalment and each instalment is sold to you under a separate contract between you and us. Failure by us to deliver any instalment will not entitle you to cancel the balance of your order. In the event you are in default of these terms and conditions in respect of any instalment, we may elect to treat your default as a breach in respect of each other instalment.

### 7. Risk

At all times from the date of delivery, our product is at your risk of loss or damage and you are responsible for its safe custody. It is up to you to arrange your own insurance.

### 8. Ownership

You do not own any of our product in your possession until all of our product you have purchased from us at any time and all other amounts owing by you to us on any account have been paid for in full. You agree that we have a security interest in the product and further agree that we are entitled to register a security interest over the product, and you agree to do all things necessary and execute all documents reasonably required by us to register the security interest.

Until you have given us full payment, you promise to store and deal with our product in a way that it is clearly identifiable as ours. You grant us an irrevocable licence to enter your premises on any business day to inspect our product in your possession and your books or records regarding our product. If you wish, you may promote and on-sell our product in the ordinary course of business even if ownership of our product has not passed to you. You will hold the proceeds of sale in trust and not by way of security, for and as agent for us in a separate account, you will pay the proceeds to us as soon as you receive them and we have the right to trace and claim such proceeds. You have no rights to bind us to any liability to any third party by contract or otherwise. If you use our product in some manufacturing or construction process of your own or some third party, you will hold such part of the proceeds as relates to our product in trust for us. Such part shall be deemed to equal in dollar terms the amount payable or owing by you to us at the time of the receipt of such proceeds. You will also keep separate records and clearly identify in your books your use of our product in such manufacturing or construction process.

### 9. Purchase Monies Securities Interest

You agree that these terms and conditions create a PMSI in the product (and its proceeds) supplied presently and in the future by us to you.

You agree to do all things necessary and execute all documents reasonably required by us to register the PMSI granted by you under these terms and conditions and to ensure that we acquire a perfected security interest in the product under the PPSA.

This PMSI does not lose its priority as a result of the renewal, refinancing, consolidation or restructure of the subject matter of these terms and conditions and any purchase money obligations.

Until ownership of the product passes to you, you waive your rights under the following provisions of the PPSA, to the extent that it is permitted by law:

- receive a notice of intention of removal of an accession (s.95);
- receive a notice that we has determined to enforce its security interest in accordance with land law (s118);
- receive a notice of enforcement action against liquid assets;
- receive a notice of disposal of product by us purchasing the product (s129);
- receive a notice to dispose of the product (s130);
- receive a statement of account following disposal of the product (s132(2));
- to receive a statement of account if no disposal of the product, six monthly (s152(4));
- to receive notice of any proposal by us to retain the product (s135(2));
- to object to any proposal by us to either retain and dispose of the product (s137(3));
- to redeem the product (s142);
- to reinstate the security agreement (s143); and
- to receive a notice of any verification statement (s157(1) and 157(3)).

To the extent permitted by the PPSA, these terms and conditions exclude any provisions of the PPSA which may be excluded in our discretion and which would otherwise confer rights on you. You further agree that where we have rights in addition to those under Part 4 of the PPSA, those rights shall continue to apply. Your right to possession of goods still owned by us under these terms and conditions shall cease if:

- (a) you being an individual, commit an act of bankruptcy, or,
- (b) you being a Company, circumstances arise where a Receiver, Manager, administrator or controller becomes entitled to take possession of any of your assets, any proceedings are instituted for your winding up, or you enter into a Deed of Company Arrangement, or
- (c) you cease or threaten to cease conducting business in the normal manner or apply for deregistration or receive a deregistration notice, or
- (d) any cheque you provide to us is dishonoured for payment, or
- (e) you fail to comply with any demand for payment issued by us, or
- (f) you breach any of the terms and conditions contained herein and/or are in default of any other agreement between us and you.

You agree that we are entitled to enter any premises where the product supplied by us and still unpaid for is located, repossess and sell such product. You agree to indemnify and keep us indemnified in respect of any claims, actions and costs that may arise against us in relation to the removal, repossession and sale of the product pursuant to these terms and conditions including any claims brought by third parties.

You agree that repossession and retention of the product pursuant to the PPSA will only satisfy so much of the monies which may become payable to us by you, as is equivalent to our estimation of the market value of the product as it is at the date of repossession and the repossession and retention will immediately extinguish any rights for interest you have on the product.

Until ownership of the product passes, you must not give us a written demand or allow any other person to give us a written demand requiring us to register a financing change statement under the PPSA or enter into or allow any other person to enter into the personal property securities register a financing change statement under the PPSA.

You agree not to change your name or undertake any changes to any documents that we have registered, require to be registered or are capable of being registered without our prior written consent.

#### 10. Assignment

You must not assign any rights or benefits under these terms and conditions unless you have obtained our prior written consent. Any assignment by you without our consent shall entitle us to avoid any liability we may have to you under these terms and conditions.

#### 11. Recovery

If at any time you owe us money on any account in excess of our trading terms then in addition to any other rights we have you agree we may enter any premises owned, possessed or controlled by you where our product is stored and remove our product and re-sell all or any of them. We are not liable to you if we take such action.

#### 12. Claims

When we deliver our product to you, you must inspect it immediately. You must report to us in writing any damage or incorrect supply within 24 hours of delivery otherwise we may refuse any claim you make. If our product is damaged when we deliver it to you we may accept its return and replace it with an equivalent product or credit you with the price paid, at our option. In all circumstances our product must be in its original packaging and proof of purchase must be supplied. If you have a dispute with us, you must notify our credit department in writing of your dispute within 24 hours of invoicing.

You agree that you shall make no claim against us for any delay in delivery or any product delivered to you damaged as a direct or indirect result of events beyond our control.

#### 13. Overdue Accounts

You agree that any discounts, rebates or other concessions are lost if payment is not made within your determined terms. If you are in breach of all of our expenses of any kind including our legal costs on a solicitor client basis and any commission or other expense incurred by any debt collection agency we retain to recover the monies you owe us.

We may commence legal proceedings against you for the recovery of any account which is overdue by 60 days or more from the date of invoice.

#### 14. Replacement or Money Back

To the full extent of the law all warranties are excluded. Warranties do not apply if the product has received maltreatment, inattention or interference or the product has not been used in accordance with any performance ratings and product safety instructions. To the extent that the law does not allow us to exclude warranties (other than a warranty as to title) our liability for any claim is limited to a refund of the purchase price actually paid, the replacement of the damaged product or the supply of equivalent product at our absolute discretion. In no circumstances are we liable for special, indirect or consequential loss, even if you advise us of any special circumstances.

#### 15. Conflict of Terms

These terms and conditions override your terms and conditions. To the extent of any discrepancy between these terms and conditions and any third party (including your own) terms and conditions these terms and conditions prevail.

#### 16. Orders

Unless we agree special arrangements, such as an authorisation code, we assume any order received from anyone in your employ has been placed with your authority and is binding on you.

No quote is binding on us unless we have prepared and accepted a written confirmation of order.

#### 17. Your Relationship with Us

Nothing in these terms and conditions creates any relationship of employment, agency or partnership between you and us.

## 18. Intellectual Property

These terms and conditions do not give you any intellectual property rights in our product.

Your details and information that you provide us about yourself may be retained by us on our database. You have no rights in that database. We may use such database in the conduct of our business, subject to privacy and other relevant laws.

We are not liable for any infringement or unauthorised use of any intellectual property rights arising from these terms and conditions. If any dispute or claim is made in respect of any infringement or unauthorised use of intellectual property we may terminate these terms and conditions by notice to you and without liability to you or any other person.

In these terms and conditions, intellectual property includes the full benefit of any rights in any copyright, trademark, registered design, patent, trade and business names, inventions, know-how, inventions, improvements, discoveries, confidential processes and information and includes without limitation artistic works, images, designs, motifs and photographs and any adaptation or concept relating to it.

## 19. Governing Law

These terms and conditions are governed by and construed according to the laws of New Wales and the Commonwealth Personal Property Securities Act 2009.

## 20. Whole Agreement

These terms and conditions form the entire agreement on which we are willing to trade with you and all or any previous agreements or understandings we may have had with you are superseded by these terms and conditions. We may alter these terms and conditions at any time upon one (1) months written notice. All transactions after the date specified in such notice will be subject to the altered terms and conditions. If you continue to trade with us after the date such alterations become effective you will be deemed to have agreed to the altered terms and conditions.

## 21. Your Obligations

You acknowledge that:

- you are not an associate or related body corporate or related party or related entity of ours (as such terms are defined in the Corporations Act 2001);
  - and the Consumer Credit Code does not apply to these terms and conditions any of our terms and conditions you agree that you are also responsible for if, at any time:
  - you believe that you may not or may be unable to perform or comply with your obligations under these terms and conditions;
  - you are unable to pay your accounts as they fall due for payment;
  - a cheque or bill of exchange received from you is dishonoured;
  - you are or become insolvent or you have an administrator appointed; or
  - your account is overdue and is not settled within our trading terms,
- 
- you agree that:
  - you will immediately notify us that one or more of the above notifiable events has occurred and you will keep us notified on a monthly basis until such notifiable event no longer exists;
  - we have no obligation and will cease to deliver to you any product you have purchased while a notifiable event exists;
  - we may close your account with us;
  - we may request payment in advance for all products you have ordered from us; and
  - we have no obligation to respond to any offer you make to purchase any of our product while a notifiable event exists.
- 
- For the purpose of these terms and conditions, you are insolvent if:
  - a receiver or receiver and manager or an agent for a mortgagee in possession has been appointed over all of your assets and undertakings;
  - you have passed an effective resolution for your voluntary winding-up;
  - an order has been made by a Court of competent jurisdiction for you to be wound up;
  - a compromise arrangement (excluding a voluntary administration) has been made legally binding on you and your creditors;
  - you have presented a debtor's petition and it has been accepted by the Registrar in Bankruptcy;
  - you have entered into a composition, deed of assignment or deed of arrangement under Part X of the Bankruptcy Act (or equivalent) with your creditors; or
  - a legally binding sequestration order has been made against your estate.

## 22. Severance

If any of these terms and conditions are determined invalid, unlawful or unenforceable to any extent such term or condition shall be severed from the remaining terms and conditions which shall continue to be valid to the fullest extent permitted by law.

## 23. Interpretation

In these terms and conditions unless otherwise indicated by the context: (i) reference to a party to a document includes that party's successors and permitted assigns; (ii) "including" and other similar words are not words of limitation; (iii) an agreement, deed, covenant, representation or warranty on the part of two or more persons binds them jointly and severally; and (iv) general words following words describing a particular class or category are not restricted to that class or category.

In these terms and conditions, the following terms have the following meaning: (i) "Law" means any Commonwealth or Australian state legislation regulations and the general law and includes in particular the Commonwealth Competition and Consumer Act 2010 and regulations as amended from time to time and the Commonwealth Personal Property Securities Act 2009 and regulations as amended from time to time; (ii) "PPSA" means Personal Property Securities Act 2009 and "Purchase Monies Securities Interest" or "PMSI" has the meaning given in section 14 of the PPSA.

All reasonable steps are taken to correct the information we hold where that information is not accurate, up-to-date and complete.

All reasonable steps are taken to ensure that all information is treated confidentially, kept secure and protected against unauthorised use and is maintained only for the purpose for which it is intended.

You have the rights given by the Privacy Act 1988 as amended.

You have the right to access your personal information and requests for information about our Privacy Statement are welcomed.

For further information on our Privacy Statement please contact our company.