

# *Malmet (Australia) Pty Ltd*

## *Credit Application and Terms of Trading Agreement*



ACN 001 717 791  
ABN 95 001 717 791

THIS AGREEMENT is made the .....day of..... 20.....  
between MALMET (AUSTRALIA) PTY LTD ACN 001 717 791 of 9-11 McKay Avenue LEETON NSW 2705 ("the Supplier")

And .....of .....

WHEREAS- ..... ("the Customer")

- a) The Customer is desirous of establishing a credit trading account with the Supplier and, for this purpose, has submitted to the Supplier the information and financial particulars as set out in the First Schedule.
- b) The Supplier has agreed to consider the Application of the Customer and to advise the Customer whether or not credit will be extended to the Customer.
- c) The parties agree that in the event of the Supplier granting to the Customer credit facilities, then such credit facilities shall be on the terms and conditions appearing overleaf.

**IMPORTANT: THE SUPPLIER IS UNABLE TO PROCESS AN ACCOUNT APPLICATION UNTIL THE FIVE INFORMATION PANELS ARE COMPLETED IN FULL.**

### First Schedule

<b>1. Customer Details:</b>			
<i>Trading Name (If not the same as above)</i>			
<i>Business Address</i>			
			<i>Postcode</i>
<i>Phone No. (        )</i>		<i>Fax No. (        )</i>	
<i>Account details for invoices and statements</i>	<i>Postal address</i>		
			<i>Postcode</i>
	<i>Email address</i>		
	<i>Fax No. (        )</i>		<i>Contact Person</i>
<b>Entity Type</b> <i>Company</i> <input type="checkbox"/> <i>Sole Trader</i> <input type="checkbox"/> <i>Partnership</i> <input type="checkbox"/> <i>Trust</i> <input type="checkbox"/>			
<i>ABN</i>		<i>Date of Incorporation</i> /      /	
<i>Issued Capital \$</i>		<i>Paid up capital \$</i>	
<i>Total amount of credit required \$</i>		<i>Years business established</i>	
<i>Requested by</i>		<i>Position held by requesting party</i>	
<i>Bank / Branch</i>		<i>Nature of Business</i>	
<i>Date of Accreditation</i>	/      /	<i>Expiry Date</i>	/      /

### *Full name and address of Sole Traders, Partners and/or Directors*

<b>2. Full Name</b>	<b>Address</b>	<b>Phone No.</b>

### *Trade References (minimum of three)*

<b>3. Business Name</b>	<b>Contact Name</b>	<b>Phone No.</b>	<b>Fax No.</b>

## Terms of Trading Agreement

### The Agreement

1. The Customer warrants that the information comprised in the First Schedule hereto is true, accurate and correct and has been supplied for the purpose of obtaining credit from the Supplier.
2. The Customer warrants that the persons whose signatures appear on this Agreement are authorised by the Customer to apply for credit and to execute this Agreement on behalf of the Customer.
3. The Customer agrees to adhere to the terms and conditions of this Agreement.
4. Jurisdiction  
  
Notwithstanding any implication of law to the contrary, all contracts between the Customer and the Supplier shall be deemed to be made and construed and to be enforceable in, and according to, the laws of the State of New South Wales and are by mutual consent subject to the jurisdiction of the Courts of that State.
5. In the event of the Supplier, prior to approving credit, granting to the Customer time to pay for any goods supplied then the granting of such time shall not amount to a waiver by the Supplier of any of the terms of this Agreement and will not be construed or be taken either directly or by implication as a granting by the Supplier of credit facilities to the Customer.
6. In the event of the Supplier granting credit facilities to the Customer then the following terms shall apply:
  - i. Property of goods supplied hereunder will pass to the Customer when the goods the subject of this contract and all other goods the subject of any other contract between the Supplier and the Customer are paid in full, and until that time all goods supplied pursuant to this Agreement will remain the exclusive property of the Supplier.
  - ii. Payment for all goods invoiced shall be made in full by the end of the month following the month of date of the invoice.
  - iii. If the Customer defaults in the payment of any monies on the due date then all monies payable to the Supplier for goods invoiced prior to the date of default shall immediately be due and payable and shall be paid by the Customer within seven (7) days of the date of demand.
  - iv. The Supplier shall be entitled to charge interest on all amounts not paid by the due date for payment and the Customer undertakes to pay any interest so charged. Such interest shall be calculated on a daily basis from the due date of payment until the date the Supplier receives payment at such rate determined by the Supplier, up to but not exceeding 2% per month.
  - v. To the extent permitted by law, and subject to any express agreement between the Supplier and the Customer to the contrary, where the Supplier becomes liable to the Customer in any manner for any breach of any condition or warranty expressed or implied in relation to the supply of goods to the Customer, the Supplier's liability will be limited, at the Supplier's sole discretion, to either:
    - (a) the replacement of the goods or the supply of equivalent goods;
    - (b) the repair of the goods;
    - (c) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
    - (d) the payment of the cost of having the goods repaired.
  - vi. The Customer agrees that by entering into this Agreement, the Customer grants a security interest to the Supplier in all goods now or in the future supplied by the Supplier to the Customer during the continuance of the relationship between the Supplier and the Customer.
  - vii. The Customer will, whether before or after goods are supplied under this Agreement, do such acts and provide such information (which information the Customer warrants to be complete, accurate and up to date) as in the opinion of the Supplier may be required or desirable to enable the Supplier to perfect under the *Personal Property Securities Act 2009* (Cth) (PPSA) the security interest created by this Agreement.
  - viii. To the extent permitted by law, the Customer waives any right to receive a copy of a verification statement under the PPSA and agrees to any contract between the Supplier and the Customer for the supply of goods governed by this Agreement to contract out of section 115(1) of the PPSA, except section 115(1)(g), to the intent that the Supplier will preserve its right to seize collateral.
  - ix. Any expenses, costs or disbursements incurred by the Supplier in perfecting or enforcing under the PPSA its security interest provided for in this Agreement or any other action taken by the Supplier to comply with, or protect its position under, the PPSA and recovering any outstanding monies, including debt collection agency fees and solicitor's costs (on a solicitor own client basis), shall be paid by the Customer.

**4. In consideration of the Supplier providing the facilities of a Credit Trading Account to the Customer, I/we accept the above terms and conditions and warrant that I/we have the authority to sign this Application on behalf of the Customer, as stated in the terms of trading agreement detailed above.**

Signature of Account Applicant.....  
 Position held .....  
 Signature of Witness .....  
 Address of Witness .....

**FIRST SCHEDULE**

### Privacy Act 1988

*Please read the following carefully*

Malmet (Australia) Pty Ltd shall hereinafter be referred to as the CREDIT PROVIDER.

The Applicant/s hereby acknowledge that they have been informed by the CREDIT PROVIDER that personal information about them may be disclosed to or acquired from a credit reporting agency.

The Applicant/s hereby acknowledge that they have been informed that personal information about the Customer may be disclosed by the CREDIT PROVIDER to a credit reporting agency.

The Applicant/s hereby agree that the CREDIT PROVIDER may contact any trade references or other credit references at any time, whether now or in the future, for the purpose of assessing credit worthiness, but only ever while the Credit Provider and the Customer conduct trading transactions together.

The Applicant/s hereby agree to the CREDIT PROVIDER receiving from any other credit provider or providing to any other credit provider any credit information whether by way of report record or otherwise relating to credit worthiness for the purposes of exchange of information, assessing credit worthiness and notification of default at any time, whether now or in the future.

The Applicant/s hereby agree to the CREDIT PROVIDER obtaining from a credit reporting agency a credit report on the Customer for the purposes of assessing this credit application and the applicant further consents to the CREDIT PROVIDER obtaining such reports from time to time for the purpose of assessing credit worthiness during the continuance of credit provision.

The Applicant/s hereby agree to the CREDIT PROVIDER obtaining from a business which provides credit information a report or information in relation to the Customer's commercial credit worthiness or commercial dealings and using such information for the purposes of assessing this application for credit.

The Applicant/s hereby agree that in the event of default in payment of the Customer's debts, the CREDIT PROVIDER may disclose all information relating to the Customer's account to its collection agency for the purpose of receiving any or all amounts outstanding.

I hereby certify that I have authority to approve the release of information as stated above under the Privacy Act 1988, apply for credit and to execute this Agreement on behalf of the Customer.

**5.**

Signature of Applicant.....  
 Position Held.....  
 Printed Name.....  
 Organisation.....  
 Signature of Witness .....  
 Address of Witness .....

***This account can not be opened until the original is received. Faxed copies not acceptable.***