



CSR Group Companies
 CSR Building Products Ltd
 ABN 55 008 631 356
 PGH Bricks & Pavers Pty Ltd
 ABN 68 168 794 821

AFS Systems Pty Ltd
 ABN 45 576 072 788
 CSR Martini Pty Ltd
 ABN 29 144 714 938

APPLICATION FOR 30 DAY COMMERCIAL CREDIT ACCOUNT

- Please return the completed Credit Application and Guarantee to
1. Give the form to the Account Manager, GTC Store Manager or local branch office
 2. Post the document to Locked Bag 1345, North Ryde, NSW 1670
 3. Email to creditapplications@csr.com.au
 4. Fax to 1300 907 181

CSR Account Manager details (please print)

Date of Application

Applicants Details

Applicants Name			Applicants means company, partnership or sole trader applying for the credit account		
ABN	<input type="checkbox"/> Ltd	<input type="checkbox"/> Pty Ltd	<input type="checkbox"/> Partnership	<input type="checkbox"/> Sole Trader	Is the Applicant in any way associated with a Trust? <input type="checkbox"/> Yes <input type="checkbox"/> No
Trust Name			Trust ABN		
Trustee Name			Trustee ACN		
Trading as (if different from Applicant)					
Business Address					
Postal Address (if different to business address)					
Business Phone		Facsimile		Mobile	
Builders Licence Number			Estimated Monthly Purchases \$		
PO Number Required on Invoices Yes / No <input type="checkbox"/> Yes <input type="checkbox"/> No					
Order Confirmation Required <input type="checkbox"/> Yes <input type="checkbox"/> No	Orders Confirmations email address or fax number		Contact Name		
Statement Delivered by Email	Statement email address		Contact Name		
Invoice Delivered by Email	Invoice email address		Contact Name		
Delivery Contact Email Address	Delivery contact email address		Contact Name		

Access order and account information online through 'CSR Connect'.

We will set up a 'CSR Connect' online account using the invoice e-mail above.

CSR Group Companies operates separate trading accounts for each of the Business Units listed below. Please identify which Business Unit you wish to open an account with now. Also please indicate if you would like to be contacted regarding an account with another Business Unit(s).

Please tick ✓

1st Account
tick 1 only

Other
Accounts

Business Unit & Product Overview

CSR Lightweight Systems

Gyprock Plasterboard, Cemintel Fibre Cement, Himmel Interior Systems

CSR Bradford Glasswool & Rockwool Insulation, Building Membranes, Ventilation, Solar Energy and Energy Saving Products

CSR Roofing

Monier & Wunderlich Roof Tiles

CSR Hebel

Autoclaved Aerated Concrete Blocks & Panels

PGH Bricks & Pavers

Clay Bricks & Pavers

AFS Systems

Permanent Formwork Systems

CSR Martini

Polyester Fibre Products

Account Manager

If you have spoken to a CSR Group Company representative regarding a new account please provide the following information;

CSR Contact Person (please print)

and / or

CSR Site – GTC, Branch, Display Centre, etc

Key Contacts

	First Name	Surname	Mobile/Phone	Email	Role
Director/ Owner					
Purchasing					
Deliveries					
Accounts Payable					

Trade References

Please supply 2 trade references:

Note: The value of the trade reference suppliers should be of a similar total value to the monthly credit limit required from CSR Group Companies

1 Name of Reference (please print)	
Contact Person	
Phone Number	Average Monthly Purchases

2 Name of Reference (please print)	
Contact Person	
Phone Number	Average Monthly Purchases

The Applicant agrees to be bound by the Terms and Conditions of Sale on this application and the Terms and Conditions of Sale set out in our website at www.csr.com.au in relation to any purchase made pursuant to the credit facility provided (if any) resulting from this application. CSR Group Companies may change the Terms and Conditions of Sale applicable to any specific contract by notice in writing to the Applicant.

Privacy Act 1988. Personal information about any individual named in this application ("you") may be used by CSR Group Companies to investigate, assess and process the application for a Credit Account (including investigating you and/or your company's or business's credit worthiness). Information provided in this application may be disclosed to our bankers, other credit providers or a credit reporting agency ("sources"). CSR Group Companies may collect information about you from these sources, for the purpose stated above. If the information sought is not provided,

CSR Group Companies may be unable to process this Application for a Commercial Credit Account. CSR Group Companies are bound by the national privacy principles contained in the Commonwealth Privacy Act. The CSR Group Companies Privacy Policy is available on request and covers information that CSR Group Companies collects or that is provided to us. Please notify CSR Group Companies if any of the information provided by you in this application changes. If you are providing personal information to CSR Group Companies about another person in connection with this application, it is your responsibility to ensure that person is made aware of the uses that CSR Group Companies may make of their information, and of the matters set out above.

Signed for and on behalf of the applicant (each authorised representative completing this application states that he or she has authority to execute this Application for and on behalf of the applicant).

Trading terms are 30 days – payment is required by the last working day of the month after the month of invoice.

CSR requires the details and signatures of all:

Please tick

Directors

Partners

Proprietors

1 Full name (please print)
Drivers Licence Number
Date of Birth
Signature

2 Full name (please print)
Drivers Licence Number
Date of Birth
Signature

3 Full name (please print)
Drivers Licence Number
Date of Birth
Signature

4 Full name (please print)
Drivers Licence Number
Date of Birth
Signature

GUARANTEE, INDEMNITY AND CHARGE

The Applicant	Company name	ABN	Date
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WARNING: THIS IS A VERY IMPORTANT DOCUMENT.

It means you may have to pay the Supplier, as referred to in the Application for 30 Day Commercial Credit Account, (the CSR Group Company making the supply of Goods to the Applicant) if the Applicant does not meet its obligations under the Terms & Conditions of Sale. You will become personally liable if the Applicant fails to pay any moneys owing to the Suppliers as referred to in the Application for 30 Day Commercial Credit Account.

Before you sign:

- you should read pages 5 & 6 which detail what you are agreeing to by signing the Guarantee, Indemnity and Charge
- you should check for yourself whether the Applicant can pay its debts as and when they fall due and whether it can comply with its obligations under the Terms & Conditions of Sale
- you may wish to consult your lawyer and/or financial adviser

By signing this document I confirm that:

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. I have read the Guarantee, Indemnity and Charge clauses contained in pages 5 & 6 of this document carefully 2. I know that it means I may be personally required to pay a debt incurred by the Applicant and indemnify the Supplier; 3. I have not signed this document under any form of duress or pressure from any person; 4. I am not purporting to act as a trustee or as agent for any other person; 5. I have been given the opportunity of obtaining legal and/or financial advice and | <ol style="list-style-type: none"> 6. I know that it is my responsibility to find out whether the Applicant will be able to pay the Guaranteed Money, whether the Applicant will be able to comply with its obligations under the Arrangements, and to make sure my interests are protected. I have made my own enquiries, I have not relied on the Supplier to give me information about the Applicant or anything else. I have not relied on anything told to me by the Supplier about the Applicant or anything else. |
|---|---|

This document is executed as a deed and is signed, sealed and delivered by each Guarantor

1st Guarantor		2nd Guarantor	
Signature of Guarantor	Signature of Witness	Signature of Guarantor	Signature of Witness
Full Name (please print)	Full Name (please print)	Full Name (please print)	Full Name (please print)
Address of Guarantor	Address of Witness	Address of Guarantor	Address of Witness
Email Address of Guarantor	Facsimile of Guarantor	Email Address of Guarantor	Facsimile of Guarantor
3rd Guarantor		4th Guarantor	
Signature of Guarantor	Signature of Witness	Signature of Guarantor	Signature of Witness
Full Name (please print)	Full Name (please print)	Full Name (please print)	Full Name (please print)
Address of Guarantor	Address of Witness	Address of Guarantor	Address of Witness
Email Address of Guarantor	Facsimile of Guarantor	Email Address of Guarantor	Facsimile of Guarantor



GUARANTEE, INDEMNITY AND CHARGE

The Guarantor(s) set out below hereby Guarantee to the Supplier that the Applicant will pay the Supplier all the Guaranteed Money described below, and INDEMNIFY the Supplier against each claim, loss, liability, cost and expense incurred by the Supplier in connection with any default by the Applicant in relation to its obligations under the Arrangements. If the Applicant does not pay the Supplier any amount of the Guaranteed Money when it is due, the Supplier can demand that you pay that amount to the Supplier. You must then immediately pay the Supplier that amount. This can happen as often as the Applicant does not pay the Supplier. It can happen even if the Supplier does not take action to recover the Guaranteed Money from the Applicant. There is no limit on the amount of the Guaranteed Money.

You must also indemnify the Supplier (that is, keep the Supplier harmless) in connection with any default by the Applicant under the Arrangements. Again, there is no limit on the amount that you might have to pay the Supplier to indemnify the Supplier.

You give this guarantee and indemnity, and make the promises set out below because the Supplier has agreed to enter or to continue the Arrangements at your request.

The **Arrangements** covered by this document are the supply of goods and/or services by the Supplier to the Applicant on whatever trading terms the Supplier set from time to time. If you agree in writing that any additional arrangement are to be covered by this document, then that also will be included as part of the Arrangements.

This document relates to all money which the Applicant may owe to the Supplier now or in the future for any reason under or in respect of the Arrangements. This is the Guaranteed Money.

This document also relates to the obligations of the Applicant under the Arrangements.

At any time the Guaranteed Money will include the following, so long as they arise under or in respect of the Arrangements.

- (a) Money which the Applicant actually does owe or will owe the Supplier
- (b) Money which the Applicant contingently owes the Supplier at that time. Money is contingently owed where the Applicant has an obligation to pay the Supplier if something happens or is discovered.
- (c) Money which the Applicant may owe the Supplier after that time if something happens or is discovered. This applies even if at that time there is no existing obligation to pay it, so long as it arises in relation to circumstances which at that time either exist or can reasonably be foreseen or contemplated.
- (d) Money which the Applicant owes or will owe as a result of a transfer to the Supplier of an obligation owed by the Applicant. This includes money contingently owed and money which any become owed later as described in paragraph (c)
- (e) Money (including money of the type set out in the above paragraphs) which the Applicant would have owed the Supplier but for some reason as described in the clause below headed 'Legal problem with the Applicant or the Guaranteed Money'

It includes in each case any money which the Applicant may owe together or with others.

Once you have executed this document you cannot escape liability. You will continue to be liable to pay money that becomes due unless and until you notify the Supplier in writing that you wish to withdraw your future support for the Applicant under this document. Such notice must be addressed to, The Supplier, C/- The Company Secretary, CSR Group Companies, Trinitii 3, 39 Delhi Road, North Ryde, NSW 2113. Then, you will not be liable for any moneys arising out of orders for goods and/or services made by the Applicant after the tenth business day following actual receipt by the Supplier of such notice from you but you will remain liable in respect of orders made on or prior to that day.

Other words used in this document are explained in the clause below headed 'Reading this document'.

Legal problem with the Applicant or the Guarantees Money

If there is a legal problem with the Applicant or the Guaranteed Money the Supplier might have no legal right to recover an amount of the Guaranteed Money from the Applicant. For example, this might happen because the Applicant might be in Administration or might not have properly signed a document or the Arrangements might be affected by a breach of the law.

If for any reason that happens you promise to pay that amount to the Supplier whenever the Supplier asks. That amount will be taken to be part of the Guaranteed Money.

This applies even if the Supplier knew of the problem, or should have known. It applies even if, because of the problem, the Applicant could never have been required to pay the Supplier the amount.

Charge

You hereby charge all of your present and future real property, wherever situated, to secure repayment of the Guaranteed Money. Once you have signed this document, you cannot withdraw this charge. Upon the signing of this guarantee, a charge over all of your present and future real property will arise and the Supplier will then by reason of the charge in this document have certain rights in relation to real property that you own or will own in the future.

These rights include:

- (a) a right to lodge a caveat over the title to any real property that you own at any time, including, any time prior to you being unable to pay the Guaranteed Money and
- (b) a right to appoint a receiver over all of your real property or a statutory trustee for sale.

The Supplier may enforce the charge at any time after your failure to pay the Guaranteed Money when demanded by the Supplier as a result of the Applicant not paying the Guaranteed Money when due.

To better give protection to the Supplier's rights, you offer to execute or register any other document or agreement to more satisfactorily assure, mortgage or secure all of your real property in favour of the Supplier and to aid in the execution or exercise of any power, right or remedy by the Supplier, at your own cost. In addition, if the Supplier accept your offer, you agree to execute a legal or statutory mortgage over any real property securing the Guaranteed Money in form and substance required by the Supplier and the Supplier may register that mortgage with the applicable government agencies.

You appoint any of the Supplier's Officers as your attorney to complete and execute any legal or statutory mortgage over any real property securing the Guaranteed Money, if the Supplier accept your offer, as contemplated in the preceding paragraph. This appointment operates as a deed poll in the Supplier's favour.

You agree not to create or allow to exist any form of security interest over any of your present and future real property except where the Supplier consent to that security interest by executing a deed of priority acceptable to the Supplier (in the Supplier's absolute discretion) except any security interest created by you before the date of this document.

Unconditional obligation

Your obligations under this document are unconditional. They are not affected by anything which might release you from all or part of your obligations, or limit them, if you had not agreed to this clause.

For example, you continue to be liable even if:

- a) the Supplier does not exercise any of our rights against the Applicant or anyone else;
- b) the Supplier gives the Applicant or anyone else time to pay or any other concession;
- c) the Supplier makes any arrangement or compromise with the Applicant or anyone else;
- d) the Supplier gives the Applicant or anyone else a discharge, or release or limits the Supplier's rights;
- e) the Supplier does not take security (for example, a mortgage or another guarantee) or does not have security, even if that security was mentioned to you;
- f) This or any other document or security is not signed by any person or is not binding on any person;
- g) the Supplier is negligent or mistaken, or break any agreement;
- h) You, the Applicant or anyone else:
 - i. who is an individual, dies or goes into some form of Administration; or
 - ii. who is not an individual (for example, a corporation or partnership), has a change in its constitution or membership or goes into some form of Administration; or
 - iii. the Applicant or anyone else has any claim against the Supplier.

GUARANTEE, INDEMNITY AND CHARGE

Changes to trading terms or credit limit

The Guaranteed Moneys and the indemnity relate to the Arrangements between the Supplier and the Applicant. The Supplier's trading terms & credit limit are a key part of the Arrangements. The Supplier may change the trading terms or credit limit or replace them. The Supplier does not have to get your consent. This document will cover the changed trading terms or credit limit or new trading terms or credit limit, even if it means that the amount of the Guaranteed Money is increased.

If the Applicant dies or goes into any form of external administration

If the Applicant or anyone else dies or goes into any form of Administration, and the Supplier can make a claim in the estate or Administration, you promise not to make a claim in that estate or Administration until the Supplier has been paid all of the Guaranteed Money.

If the Supplier receive any amount as a result of making a claim, or for any other reason, the Supplier will use the funds to reduce the Guaranteed Money. You are fully liable for the remainder of the Guaranteed Money.

Liability after the Applicant makes a payment

Your obligations under this document are continuing. They apply to all of the Guaranteed Money from time to time even though some of it may have been paid by the Applicant or you or anyone else in the meantime.

The Supplier's disclosure responsibility

The Supplier does not have to tell you anything about the Applicant or anyone else, nor does the Supplier have to tell you whether anything happens in relation to the Guaranteed Money or the Arrangements or any security or rights.

Payment refunds

The Supplier might be required to refund or give up money which the Applicant or anyone else has paid to the Supplier or which the Supplier has recovered in any way. For example, this might happen because of a law about Administration or about the duties or powers of mortgagees, trustees, directors or officers, or because the money belonged to someone else.

If that happens for any reason, you will owe the Supplier all the money you would have owed if the amount refunded or given up had never been paid or recovered. You promise to do everything you can to restore to the Supplier all security and rights which the Supplier held immediately before the Supplier received the money the Supplier later had to refund or give up.

Interest

You promise to pay to the Supplier interest on any amount which you must pay under this document. That interest will be calculated as from the day that the amount is due and on the daily balance of the amount unpaid. This applies even if the Supplier has a judgment for the amount. The rate will be the same as the rate payable by the Applicant on any overdue moneys under the Arrangements. If you do not pay the interest due within the month that interest will compound monthly from the date the amounts you owe the Supplier became due until you have paid the all outstanding amounts due to the Supplier.

Expenses

You promise to pay all amounts which the Supplier reasonably spend or incur in connection with enforcing our rights under this document or consider enforcing which include our legal fees on a full indemnity basis.

Notices and demands

A notice or demand under this document given by any of the Supplier's Officers will be taken to have been received by you if:

- a) it is served on you personally
- b) it is left at your last address known to the Supplier
- c) it is sent by mail to your last known address to the Supplier. If so, it will be taken to be received on the third day after posting
- d) it is sent by facsimile transmission to any number you give to the Supplier
- e) it is sent by e-mail to any e-mail address you give to the Supplier

Joint and several obligations

In this document, a reference to an obligation of any two or more persons confers that obligation, as the case may be, jointly and severally and a reference to that party includes a reference to any one or more of those persons.

Legal proceedings

You agree that service of any legal proceedings or other legal documents may be made by:

- a) prepaid post to the address stated by you in the Guarantee, Indemnity and Charge; and/or
- b) facsimile to any facsimile number stated by you in the Guarantee, Indemnity and Charge; and/or
- c) e-mail to any e-mail address stated by you in the Guarantee, Indemnity and Charge or to such other address/facsimile number/e-mail address as may be notified by you in writing to the Supplier and that such service will be effective regardless of any correspondence being returned to the Supplier or otherwise not being able to be transmitted.

Effect of law

This document is subject to laws limiting the Supplier which cannot be excluded. Otherwise all laws which limit our power or require notices to be given are excluded as far as possible. If any part of this Guarantee is prohibited or unenforceable, it will not affect the remaining parts.

Governing law and jurisdiction

This Guarantee, Indemnity and Charge shall be governed by the laws of the State in which the majority of the debt in value was incurred or another State at the sole discretion of the Supplier and you irrevocably submit yourself to the jurisdiction of the courts of the capital city of the State in which the Supplier initiates legal proceedings.

Privacy

You agree that the Supplier may obtain from a credit reporting agency a consumer credit report containing information about each of you for the purpose of assessing whether to accept each of you as a guarantor for credit applied for by, or provided to, the Applicant. You each agree that the agreement under this clause commences from the date of this document and continues until the credit covered by the Applicant's application ceases.

Reading this document

In this document:

Administration includes bankruptcy, administration arising out of mental illness or incapacity, administration of an insolvent estate, administration or liquidation of a corporation, scheme of arrangement, receivership or winding up or anything similar.

The definitions in the Terms and Conditions of Sale shall apply in this Guarantee, except that: The Supplier also includes any person to whom the Supplier assigns its rights under this Guarantee and under all or part of the Arrangements.

The Supplier has the same meaning as in the Terms and Conditions of Sale and the Application for 30 Day Commercial Credit Account, and includes any person to whom the Supplier assigns its rights under this Guarantee and under all or part of the Arrangements.

TERMS AND CONDITIONS OF SALE

(Subject to the provisions of the Competition & Consumer Act)

SCOPE AND DEFINITIONS: Unless otherwise expressly agreed in writing these Conditions, which supersede any earlier conditions appearing in catalogues or elsewhere, shall override any terms, conditions or warranties stipulated, incorporated or referred to by the Applicant.

All contracts for the sale of goods by CSR Group Companies to the Applicant shall be subject to these Conditions (as amended from time to time by CSR Group Companies and appearing on the website www.csr.com.au).

"Applicant" means the party making this application for credit.

"Conditions" means these Terms and Conditions of Sale.

"Consequential Loss" means loss of expected savings, loss of use, loss of opportunity, loss of profit, loss of revenue, increased financing costs, loss arising from delay, or any consequential, special or indirect loss or damage, whether or not the possibility or potential extent of the loss or damage was known or foreseeable, and whether arising from a claim under indemnity, contract, tort (including negligence), statute or otherwise.

"CSR Group Company" means CSR Building Products Ltd, PGH Bricks & Pavers Pty Ltd, AFS Systems Pty Ltd or CSR Martini Pty Ltd.

"Goods" means all property sold by the Supplier to the Applicant under this agreement as described in any invoice or other commercial document evidencing sale.

"Loss" means any expense, cost or damage of any kind and includes Consequential Loss and a fine or penalty imposed by a statutory or other authority.

"Officer" includes any of CSR Group Companies' employees whose title includes the word Manager, President, Secretary or Director or any other person authorized by CSR Group Companies to act in any capacity.

"Supplier" means, in connection with the supply of any Goods, the CSR Group Company making the supply to the Applicant.

ACCEPTANCE: No binding contract shall exist until the Applicant's order has been accepted by the Supplier.

1. INTELLECTUAL PROPERTY: Intellectual Property means all registered and unregistered rights in relation to present information, moral rights and all other intellectual property as defined in article 2 of the Convention establishing the World Intellectual Property Organisation 1967.

2. QUOTATIONS AND ORDERS: Quotations given and orders accepted are subject to the following conditions:

- a) Unless otherwise agreed in writing, quotations given and orders accepted are based on the Supplier's rates and costs as at the date of quotation of materials, transport, labour and other costs. The price may be increased by the amount of any increase in the cost to the Supplier of any such item or any other factors (including any change in exchange rates) affecting the Supplier's cost of supply, production, labour or delivery of the goods.
- b) Without limiting the generality of the foregoing, any alteration in quantity, sizes, specification, complexity of work or delivery may necessitate an adjustment of prices.
- c) No order may be suspended, cancelled or amended without the Supplier's agreement in writing and the Applicant shall accept liability for all costs incurred by the Supplier, including but not restricted to purchases, stocks, work in progress, labour costs or unrecovered overheads consequent upon the suspension, cancellation or amendment of any order agreed to by the Supplier.
- d) Orders are accepted subject to the Supplier's minimum order conditions and manufacturing limitations for various items.

3. DESPATCH & DELIVERY:

- a) Despatch and delivery times shall be agreed in writing between the parties and should no written agreement exist any time given or accepted by the Supplier for despatch or delivery shall be treated only as an estimate in good faith. No contractual obligation as to time or date shall be binding upon the Supplier other than to expect that all despatches and deliveries will be made within a reasonable time.
- b) Where delivery or despatch is to be made by installments, each delivery or despatch shall be deemed for such purpose to be the subject of a separate contract and any delays whatsoever in respect of any particular despatches or deliveries shall not entitle the Applicant to repudiate the order or any installments remaining to be delivered. In the event of the Applicant making default in respect of any installment, the Supplier may elect to treat the default as a breach of contract relating to each other installment.
- c) If for any reason the Applicant is unable to accept delivery of the goods at the time when the goods are due and ready for delivery, the Supplier may either store the goods at its own premises or arrange for suitable outside storage until actual delivery and the Applicant shall be liable to the Supplier for the costs of such storage, including any additional handling insurance and transport costs. This provision shall be in addition to and not in substitution of any other payment of damages for which the Applicant may become liable due to its failure to take delivery at the appropriate date. Without limiting the generality of the foregoing, the Applicant will pay for the goods after 60 days of storage. In addition, the Supplier may, at its sole discretion, sell the goods in storage to others if the Applicant fails to pay for the goods or fails to pay storage charges when due.
- d) The Supplier reserves the right to apply delivery charges to all deliveries into the Applicant's premises or to site or other locations specified by the Applicant. The Supplier may also apply additional freight charges for deliveries outside capital cities

or by alternative means of transport. The Supplier shall be under no obligation to insure goods while in transport.

- e) Risk of any loss damage or deterioration in the goods ordered shall pass to the Applicant as soon as goods are clear of the delivery vehicle or have been loaded on the Applicant's vehicle or the Applicant's contractor's vehicle.
- f) The Supplier accepts no liability for off-loading the goods from the delivery vehicle and the Applicant shall keep the Supplier indemnified from and against all claims whatever arising from such off-loading.
- g) The Supplier reserves the right to despatch the goods by the most suitable form of transport and to pack the goods in the most suitable manner.
- h) Once an order is placed into production and subsequently cancelled by the Applicant, all freight or other charges will be applied and no credit or claim will be accepted by the Supplier.

4. RETENTION OF TITLE:

- (a) The Supplier retains legal and equitable title in any goods supplied to the Applicant until payment in full for or in connection with the supply of the relevant goods has been received by the Supplier. Until payment in full has been received, the following terms apply.
- (b) Notwithstanding that title in the goods remains with the Supplier until payment has been received in full, the Applicant may sell such goods or use the goods in a manufacturing or construction process in the ordinary course of the Applicant's business. As between the Applicant and the purchaser of any item of the Goods, the Applicant sells as principal and not as agent of the Supplier. The proceeds of sale of each item of Goods must be held by the Applicant in a separate fund on trust for the Supplier and the Applicant is under a duty to account to the Supplier for such proceeds. The creation of, or any failure of, any such trust shall not in any way limit the obligation of the Applicant to pay an amount to the Supplier for Goods supplied.
- (c) Until goods are sold or used in a manufacturing or construction process, the Applicant must keep the goods safe and free from deterioration, destruction, loss or harm, clearly designate the goods as the property of the Supplier, store them in such a way they are clearly identified as the property of the Supplier and keep full and complete records, firstly, of the physical location of the goods and, secondly, the ownership of the goods by the Supplier.
- (d) The Supplier is irrevocably entitled at any time and from time to time before sale of any item of Goods by the Applicant to inspect or to recover and take possession of such goods and otherwise exercise in relation to the goods any of its rights whether those rights are as owner and/or unpaid the Supplier or otherwise and whether those rights are conferred by common law, contract, statute or in any other way. In order to exercise such entitlement, the Supplier and its agents are irrevocably authorised by the Applicant to enter any of the Applicant's premises or vehicles or those of any third party. The Applicant agrees to obtain the consent of any such third party to such entry by the Applicant and to indemnify the Supplier and its agents for any liability arising from any entry upon such third parties' premises or vehicles. The Supplier and its agents agree to take all reasonable care in removing the goods from such premises or vehicles but, to the extent this liability may be disclaimed by law, are not liable for any damage or injury to such premises caused by the removal of the goods.
- (e) This reservation of title and ownership is effective whether or not the goods have been altered from their supplied form, or commingled with other goods.

4A. Security interest

- (a) The retention of title arrangement described in clause 4 constitutes the grant of a purchase money security interest by the Applicant in favour of the Supplier in respect of all present and after-acquired goods supplied to the Applicant by the Supplier.
- (b) The Applicant must immediately, if requested by the Supplier, sign any documents, provide all necessary information and do anything else required by the Supplier to ensure that the Supplier's purchase money security interest is a perfected security interest.
- (c) The Applicant will not enter into any security agreement that permits any other person to have or to register any security interest in respect of the goods or any proceeds from the sale of the goods until the Supplier has perfected its purchase money security interest.
- (d) For any goods supplied that are not goods that are used predominately for personal, domestic or household purposes, the parties agree to contract out of the application of ss 95, 118, 121(4), 130, 132(4), 135, 142 or 143 of the PPSA in relation to the goods.
- (e) The Applicant hereby waives any rights the Applicant may otherwise have to:
 - (i) receive any notices the Applicant would otherwise be entitled to receive under ss 95, 118, 121, 130, 132 or 135
 - (ii) apply to a Court for an order concerning the removal of an accession under section 97
 - (iii) object to a proposal of the Applicant to purchase or retain any collateral under ss 130 and 135

- (iv) receive a copy of a verification statement confirming registration of a financing statement, or a financing change statement, relating to any security interest the Supplier may have in goods supplied to the Applicant from time to time.
- (f) For the purposes of this clause "PPSA" means the Personal Property Securities Act 2009. The expressions "accession", "collateral", "financing statement", "financing change statement", "security agreement", "security interest", "perfected security interest" and "verification statement" have the meanings given to them under, or in the context of the PPSA. References to sections are to sections of the PPSA.

RISK AND TRANSIT LOSS: Goods are at the Applicant's risk from the moment of delivery or collection. If the Applicant establishes to the satisfaction of the Supplier that goods have been lost in transit, or were not handed over by the carrier complete and without shortage, the Supplier will at its discretion, replace the damaged or missing goods free of charge or credit the Applicant with the value of them, provided that the Applicant shall have given to the Supplier written notification (otherwise than on the carrier's delivery document) of such damage, loss or shortage as follows:

- (a) Within seven days of delivery of the consignment in the case of damage, loss or part of the consignment or shortage of goods.
- (b) Within 28 days of the dispatch of the consignment where the whole of the consignment is lost. The Supplier shall be permitted a reasonable opportunity to inspect any damaged consignment in the case of (a) above and to investigate any loss in the case of both (a) above or (b).

To the extent permitted by law, the Supplier shall not be liable for consequential or incidental damage or loss whether in contract or in tort for the loss damage or injury arising from breach of any of the Supplier's obligations, cancellation of the contract or for any negligence on the part of the Supplier. The Supplier's liability in all other respects shall not, to the extent permitted by law, in the aggregate exceed the tax invoice value of the goods.

The written notification to the Supplier under (a) above shall state whether any damaged goods have been salvaged by the Applicant and upon the Supplier replacing or crediting any damage or loss under (a) above any salvaged goods shall be available to and at the disposal of the Supplier. Failure by the Applicant to state whether or not any goods have been salvaged shall relieve the Supplier from all liability or obligation under (a) above.

Except as provided in the foregoing provisions, the Supplier shall not, to the extent permitted by law, be liable to the Applicant for any loss or damage arising out of or in connection with goods damaged or lost in transit.

- 5. SYSTEM PERFORMANCE, CUTTING, HANDLING, STORAGE, INSTALLATION, SAFETY & APPLICATION OF SURFACE COATINGS:** The Applicant acknowledges the existence of various guidelines made available by the Supplier dealing with the topics outlined in this heading (including, without limitation, those made available on the Supplier's website). The Applicant indemnifies the Supplier in respect of any non-compliance, or failure to act, by the Applicant (including, without limitation, its' agents and subcontractors) in respect of such guidelines.

- 6. DEFECTIVE GOODS:** Without limiting the obligations of the Supplier at law:

- (a) Goods alleged by the Applicant to be defective, if notified in writing to the Supplier within 30 days of receipt by the Applicant, (time being of the essence) and accepted by the Supplier as defective, will at the discretion of the Supplier be replaced free of charge (to the original delivery point) or credited to the account of the Applicant. The Supplier reserves the right to inspect goods prior to determining as above. If the goods are in the custody of the Supplier for investigation or repair they shall be at the risk of the Applicant and no liability shall attach to the Supplier its servants or agents for any damage occasioned to the goods howsoever arising.
- (b) It is the responsibility of the Applicant to inspect the goods as soon as practically possible after delivery. Inspection procedures should have due regard to the nature of the goods and their intended application.
- (c) The Applicant shall not assert any claim for any reason after the goods are used, sold, cut, processed or otherwise altered or if the Applicant is in default of any of the terms for payment stipulated herein.
- (d) In no case shall any claim exceed the invoice value of the goods in respect of which that claim is made. Only one claim may be made with respect to any particular goods and that claim must clearly identify the specific transaction number to which the allegedly defective goods relate.

- 7. SUITABILITY FOR APPLICATIONS:** to the extent permitted by law, no condition is made or to be implied; nor is any warranty given or to be implied as to the life or wear of the goods supplied or that they will be suitable for any particular purpose or for use under specific conditions, notwithstanding that such purposes or conditions may be known or made known to the Supplier. Whilst the Supplier manufactures its products in accordance with specific Australian manufacturing standards, which are available on request, it is the Applicant's responsibility to ensure that the goods comply with the requirements of the use of the material. The Supplier reserves the right to sub-contract the production, manufacture or supply of the whole or any part of the goods or any materials or services to be supplied.

8. PAYMENT:

- (a) Payment of goods purchased and services rendered inclusive of freight, handling and other expenses shall be made within 30 days of the date of the statement where upon that transaction appeared. Time will be of the essence for the performance of the Applicant's obligations for payment. If at any time monies are overdue and owing upon any Tax Invoice then the whole amount of all invoices then outstanding shall become immediately due and payable together with the costs of collection of any monies then due and payable including but not exclusively fees of any mercantile agent or solicitor engaged by the Supplier shall be recoverable in full against the Applicant.
- (b) Payment shall be net cash at the end of the month following the month in which goods are ready for dispatch.
- (c) The Supplier accepts payment of accounts by MasterCard or Visa. Amex is also accepted at some sites and through the the Supplier customer web site, www.csrconnect.com.au. Fees may be applied for credit card payments. The Applicant agrees and accepts that credit card fees will be charged at a rate that is set by the Supplier and at the sole discretion of the Supplier.
- (d) The Applicant shall pay interest at the rate of 1% per month on daily balances in respect of any amounts as may from time to time be overdue until paid and such money, together with all interest, shall be recoverable from the Applicant as a liquidated debt.
- (e) The Supplier reserves the right to vary the terms of payment and total value of credit allowed by notice in writing to the Applicant at any time and to require payment in cash in full prior to delivery should the credit worthiness of the Applicant at any time in the Supplier's opinion become unsatisfactory.
- (f) The Supplier may at its sole discretion enforce its rights under provisions of the Building & Construction Industry Security of Payments Act in the recovery of moneys that are owed to the Supplier.

- 9. DEFAULT:** If the Applicant commits any default whether under this or any other contract between the Supplier and the Applicant, the Supplier will be entitled to withhold further deliveries or cancel the contract without prejudice to any rights to recover any debt or damages arising prior to the date of default.

- 10. APPLICANT'S INSOLVENCY:** In addition to any lien to which the Supplier may by Statute or otherwise be entitled, the Supplier shall, in the event of the Applicant's insolvency, bankruptcy or winding up, be entitled to a general lien on all property or goods belonging to the Applicant in the Supplier's possession, (although such goods or some of them may have been paid for), and for the unpaid price of any other goods sold and delivered to the Applicant under any contract pursuant to these Conditions.

- 11. SECURITY:** By accepting these Conditions the Applicant charges in the Supplier's favour all the Applicant's estate and interest in real property that the Applicant owns either beneficially and/or as trustee of any trust which the Applicant now has or may later acquire with due payment to the Supplier of all monies that may become payable by the Applicant and the Applicant irrevocably appoints as the Applicant's duly constituted attorney the Supplier's Officers or the Supplier's solicitors to execute in the Applicant's name, and as the Applicant's act and deed, any real property mortgage, or consent to any caveat the Supplier may choose to lodge against real property that the Applicant may own in any Land Titles Office in any State or Territory of Australia even though the Applicant may not have defaulted in carrying out their obligations.

- 12. SPECIFICATIONS:** Any description of goods contained in any contract pursuant to these Conditions is given by way of identification only and use of such description shall not constitute a contract of sale by description.

- 13. TOOLS, ETC. USED IN CONNECTION WITH ORDER:** All tools, gauges, jigs, drawings, plans, blue prints, specifications, check fixtures, screens, photographs, electronic or other images, stencils and similar items which are manufactured, paid for, supplied or used by the Supplier in connection with any order or enquiry shall remain the property of the Supplier and shall be treated as confidential by the Applicant and should not be reproduced, sold, loaned or otherwise disposed of without the prior written consent of the Supplier. The Supplier reserves the right to sell to other Applicants any products made using the same items.

- 14. RETURNABLE EQUIPMENT:** Unless otherwise advised in writing by the Supplier, ownership of pallets, blocks, gluts, packing cases or other containers except cardboard cartons remains with the Supplier which are returnable by the Applicant to the Supplier. The Applicant shall be responsible for the care and safety of returnable equipment whilst it is on the Applicants premises or job site. The cost of replacement or repair of any returnable equipment lost or damaged whilst in the possession of the Applicant shall be for the Applicant's account.

- 15. INTELLECTUAL PROPERTY:** All Intellectual Property of the Supplier shall remain the sole property of the Supplier and no licence, right or other interest of any kind in respect of such Intellectual Property is granted, created or transferred to the Applicant.

16. LIABILITY:

16.1. Exclusion of implied terms The Applicant acknowledges that the Supplier is not responsible for any related services including but not limited to building engineering, quantity surveying and systems design. The Applicant acknowledges that it is the Applicant's responsibility to obtain its own advice and that it has not relied on any recognition from the Supplier about these matters.

The Applicant may have the benefit of consumer guarantees under the Australian Consumer Law. Otherwise, to the maximum extent permitted by law, all terms, conditions or warranties that would be implied into the Supplier's terms and conditions or in connection with the supply of any goods by the Supplier under law or statute or custom or international convention are excluded.

16.2. Limitation of liability To the maximum extent permitted by law and subject to subclauses 16.1 & 16.3, the Supplier's total liability arising out of or in connection with its performance of its obligations pursuant to these Conditions, the Supplier Terms & Conditions, or arising out of or in connection with the supply of specific goods (including pursuant to or for breach of these Conditions, Supplier's Terms & Conditions or repudiation thereof, under statute, in equity or for tort including negligent acts or omissions) is limited as follows:

- (a) the Supplier shall have no liability to the Applicant for any Consequential Loss;
- (b) the Supplier's total aggregate liability for Loss, however arising, shall not exceed the GST exclusive aggregate price paid by the Applicant to the Supplier for the specific goods that gave rise to the Loss in question. The limitations and exclusions in this sub-clause (b) do not apply to the extent that any Loss is directly attributable to:
 - (i) the personal injury or death caused by the Supplier's default, breach of these Conditions or the Supplier Terms & Conditions or negligence; or
 - (ii) fraud by the Supplier.
- (c) The Applicant indemnifies the Supplier (together with its related bodies corporate, employees and agents) against any loss or damage (including consequential and indirect loss or damage) incurred as a direct or indirect result of any act or omission of the Applicant, including any act or omission in breach of these Conditions or any law.

Each party must take reasonable steps to mitigate any Loss it suffers or incurs.

16.3. Limitation of liability under Australian Consumer Law Guarantees

To the extent that goods supplied by the Supplier are not goods of a kind ordinarily acquired for personal, domestic or household use and the Applicant is deemed to be a consumer for the purposes of section 64A of the Australian Consumer Law, the Applicant agrees that the Supplier's liability for a failure to comply with a consumer guarantee that the Applicant may have the benefit of under the Australian Consumer Law (other than a guarantee under ss 51 (title), 52 (undisturbed possession) and 53 (undisclosed securities)), is limited to, at the option of the Supplier, one or more of the following:

- (a) 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) equivalent goods; or
- (e) the payment of the cost of having the goods repaired.

To the extent that services supplied by the Supplier are services other than services of a kind ordinarily acquired for personal, domestic or household use or consumption, the Supplier's liability for failure to comply with a consumer guarantee that the Applicant may have the benefit of is limited to, at the option of the Seller:

- (a) the supply of the services again; or
- (b) the payment of the cost of having the services supplied again.

17. ASSIGNMENT: Any contract or order between the Supplier and the Applicant as principals and shall not be assignable by the Applicant without the express written consent of the Supplier.

18. SALES OUTSIDE AUSTRALIA: Unless otherwise advised in writing by the Supplier:

- (a) All goods supplied will be invoiced in Australian dollars.
- (b) The Applicant agrees that it is responsible for payment of all costs and expenses arising after the goods leave the Supplier's warehouse.

19. DISPUTES AND JURISDICTION:

- (a) The Applicant's contract with the Supplier shall be governed by the laws of the State in which the majority of the debt in value was incurred or another State at the sole discretion of the Supplier and the Applicant irrevocably submits to the jurisdiction of the courts of the capital city of the State in which the Supplier initiates legal proceedings.
- (b) The Applicant agrees to pay a stakeholder nominated by the Supplier, any amount certified by the Supplier as payable, before the Applicant becomes entitled to dispute whether that amount is payable including but not limited to making any application under section 459G of the Corporations Act. Such amount will be held on trust and invested until dispute is resolved and all accretions shall be payable to the party entitled to such amount.

20. ENFORCEMENT: Failure by the Supplier to insist upon strict performance of any Condition herein shall not be deemed a waiver thereof or of any rights the Supplier may have, and shall not be deemed a waiver of any enforcement by the Supplier of any subsequent breach of any Condition.

21. FORCE MAJEURE: If the performance of the order or any obligation there under is prevented by force majeure, the Supplier shall be excused performance, provided that the Supplier shall use its best endeavours to remove such cause(s) of non-performance, and shall continue performance there under without delay when such cause(s) are removed. For the purposes of these conditions the term "force majeure" includes acts of God, strikes, lock-outs, fire, accident, lightning, earthquakes, storms, floods, explosion, war, acts of terrorism, machinery breakdown, difficulty in procuring suitable materials, goods or substances required in the manufacture of the goods and any other circumstances, whether similar or dissimilar, beyond the reasonable control of the Supplier .

22. INDEMNITY PATENTS: The Applicant warrants that any design or instruction furnished to the Supplier shall not be such as will cause the Supplier to infringe any patent registered design or trade mark in the execution of the Applicant's order and where the Supplier has followed a design or instruction furnished or given by the Applicant, the Applicant shall indemnify the Supplier against all damages, penalties, costs and expenses, to which the Supplier may become liable through any work required to be done in accordance with those instructions involving an infringement or unauthorised use of patent, trade mark, registered design, copyright or common law rights. It is specifically agreed that the sale and purchase of the goods does not confer on the Applicant any license or rights under any patent, trade mark or copyright which is the property of the Supplier.

23. MINIMUM CHARGE: Unless otherwise agreed there will be a minimum charge for any one order, as nominated by the Supplier from time to time.

24. CREDIT INFORMATION:

(a) The Applicant irrevocably authorises the Supplier, its servants and agents to make such enquiries as it deems necessary to investigate the credit worthiness of the Applicant and its directors/principles from time to time including (inter alia) the making of enquiries with trade references, the bankers of the Applicant, any other credit provider or a credit reporting agency (hereinafter called "the information sources"). The Applicant authorises the information sources to disclose to the Supplier such information concerning the Applicant and its directors/principles which is within their possession and which is required by the Supplier.

(b) The Applicant agrees that the information provided on any credit application signed by it may be disclosed to a credit reporting agency or any other interested person.

25. CHANGE IN CONTROL: In the event of the Applicant being a proprietary or private company transfers or sells shares totalling more than 50% of the issued share capital of the Applicant or of the controlling interest therein, the Applicant must notify the Supplier within 28 days of such transfer or sale occurring.

26. GOODS AND SERVICES TAX: All amounts payable in relation to these terms and conditions are expressed to be exclusive of GST. If GST is payable on a taxable supply as defined in A New Tax System (Goods and Services Tax) Act 1999 then the amount payable by the Applicant for that taxable supply will be the amount expressed plus GST.

27. ILLEGALITY OR INVALIDITY: If any provision of any contract between the Supplier and the Applicant shall be determined by any Court or tribunal to be illegal, invalid, void or voidable, the legality of the remainder of such contract shall not be affected and the illegal, void or voidable provision shall be deemed deleted from such contract and the remainder of the contract shall continue in full force and effect.

28. WEBSITE: The Supplier has made all reasonable efforts to ensure that all information provided on the Supplier's website is accurate at the time of inclusion but makes no representation or warranties, express or implied, except as imposed by law, regarding the information provided on the website, including any hypertext links or any other items used either directly or indirectly from the website and reserves the right to make changes or corrections at any time without notice. The Supplier takes no responsibility for and does not endorse, sponsor or recommend the contents, accuracy or performance of any links attached to the website. The Supplier accepts no responsibility for any inaccuracies or omissions in the website and any decisions based on information contained in the website are solely the responsibility of the Applicant. The Supplier accepts no liability for any direct, indirect, special, consequential or other losses or damages arising out of access to, or the use of the website or any information contained therein.

29. NOTICES: All documents or notices relating to any contract between the Supplier and the Applicant shall be deemed to have been received by the addressee on the date of delivery or faxing, or when posted, on the 3rd working day after posting.

30. SERVICE OF LEGAL PROCEEDINGS: The Applicant agrees that service of any legal proceedings or other legal documents may be made by

- (a) Prepaid post to the address stated by the Applicant in this document and/or
- (b) Prepaid post to the registered address of the Applicant as recorded with ASIC and/or
- (c) Facsimile to any facsimile number stated in this document and/or
- (d) Email to any email address stated by the Applicant in this document or to such other address/facsimile number/e-mail address as may be notified by the Applicant in writing to the Supplier and that such service will be effective regardless of any correspondence being returned to the Supplier or otherwise not being able to be transmitted.