



**CREDIT APPLICATION FORM**

In this Credit Application Form the term “Kaipara” means Kaipara Limited, Smythes Quarries Limited and Brookby Quarries Limited. Please note we require 10 working days to verify references and process your application to open an account. If your application is accepted, we will advise you in writing and provide you with our bank account details for future payment of the account.

**PLEASE RETURN COMPLETED CREDIT APPLICATION FORM TO:**

Post: Kaipara Limited, P.O. Box 8, Beachlands, Auckland 2147  
Email: joanne.costello@kaipara.co.nz

**SECTION 1: APPLICANT DETAILS**

Please tick to indicate in what capacity you are applying for a credit account:

Company  Sole Trader  Partnership  Re-open

Legal Entity Name: \_\_\_\_\_

Trading As (if applicable): \_\_\_\_\_

Company Number: \_\_\_\_\_

Date of Registration: \_\_\_\_\_

Type of Business: \_\_\_\_\_

Purpose of Partnership (if applicable): \_\_\_\_\_

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

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

Business Phone Number: \_\_\_\_\_

Business Email: \_\_\_\_\_

Estimated Monthly Spend: \_\_\_\_\_

Purchasing Contact Name: \_\_\_\_\_

Purchasing Direct Line: \_\_\_\_\_

Purchasing Mobile: \_\_\_\_\_

Purchasing Email: \_\_\_\_\_

Accounts Contact Name: \_\_\_\_\_

Accounts Direct Line: \_\_\_\_\_

Accounts Mobile: \_\_\_\_\_

Accounts Email: \_\_\_\_\_

Email for Invoices and Statements: \_\_\_\_\_



**SECTION 1: APPLICANT DETAILS (continued)**

Is a Purchase Order Required for Supply of Goods (please tick):

Yes  No

Have you previously operated a trading account with Kaipara Ltd, Brookby Quarries Ltd or Smythes Quarries Ltd (please tick):

Yes  No

If yes, please state Account Name: \_\_\_\_\_

**SECTION 2: DIRECTOR / PARTNER / SOLE TRADER DETAILS**

Director 1 / Partner 1 / Sole Trader Name: \_\_\_\_\_

Mobile: \_\_\_\_\_ Landline: \_\_\_\_\_

Email: \_\_\_\_\_

I consent to a credit check in terms of the privacy policy in section 3.

Drivers Licence No: \_\_\_\_\_ Version No: \_\_\_\_\_

DOB: \_\_\_\_\_

Director 2 / Partner 2 Name: \_\_\_\_\_

Mobile: \_\_\_\_\_ Landline: \_\_\_\_\_

Email: \_\_\_\_\_

I consent to a credit check in terms of the privacy policy in section 3.

Drivers Licence No: \_\_\_\_\_ Version No: \_\_\_\_\_

DOB: \_\_\_\_\_

*If there is insufficient room, please copy this page and complete for remaining directors/partners.*



**SECTION 3: CUSTOMER ACCEPTANCE AND PRIVACY ACT 2020**

I/We:

- a) Confirm that the information provided in connection with this credit application is in all respects true, complete and up to date and I/we will immediately inform Kaipara in writing if at any time this is not the case;
- b) Have read and agree to be bound by all terms and conditions contained herein, including the Conditions of Supply set out in Section 7 (as varied by Kaipara in its sole discretion from time to time)(**Terms**);
- c) Confirm that no information has been withheld of which Kaipara should be aware in considering this application for credit,
- d) Authorise Kaipara and other business units in the Kaipara group of companies to collect from me/us or any third parties (including, without limitation, credit reporters and other credit providers), hold and use, any “personal information” (as that term is defined in the Privacy Act 2020) including without limitation the information in this form and any other information collected in the course of my dealings with Kaipara, and for a reasonable period thereafter, in relation to my/our identity, credit history or creditworthiness, for the following purposes:
  - I. Making a credit decision in relation to the applicant set out in section 1 (**Applicant**);
  - II. In relation to any default by the Applicant under its credit arrangements with Kaipara or any other related purposes;
  - III. In relation to the enforcement or attempted enforcement of the Terms;
  - IV. Distribution to the Applicant of promotional material and information about the goods and services supplied by Kaipara ; and
  - V. Generally for the purpose of doing business with the Applicant (**Credit Purposes**);
- e) Authorise Kaipara to hold such information for such period as Kaipara provides credit to the Applicant (**Credit Period**);
- f) Authorise each third party referred to above to disclose the information referred to above (**Information**) to Kaipara and other third parties (including, without limitation, customers of credit reporting agencies) and agree that Kaipara may produce this authority to any such third party as evidence of my/our consent;
- g) Authorise Kaipara to disclose any Information during the Credit Period to credit providers, debt collectors, credit reporters or any other third parties in connection with Credit Purposes, including, without limitation;
  - I. For the purposes of confirming the Information and/or creating a credit profile for the Applicant; and
  - II. For collating with any other information about me/us from other sources and/or to create a credit score in respect of the Applicant;
- h) Acknowledge that I/we have a right of access to, and correction of, all personal information regarding me/us held by Kaipara.
- i) Acknowledge that if not all the requested information is provided, the Applicant may not be able to open a credit account with Kaipara;
- j) Acknowledge that Kaipara, having it’s registered office at Ranger House, 242 Jack Lachlan Drive, Pine Harbour Marina, Beachlands, New Zealand is the agency that is collecting and will hold the Information (subject to the rights of the third parties to receive and hold the Information, as set out above; and
- k) Acknowledge and agree that if this credit application is executed and returned to Kaipara by transmitted electronically copy in either Tagged Image Format Files (TIFF) or Portable Document Format (PDF) that any such copy shall be treated as an original, be fully binding and with full legal force and effect and I/we waive any rights I/we have to object to such treatment.

**SECTION 4: EXECUTION SIGNED BY THE APPLICANT**

Director 1 / Partner 1 / Sole Trader Name: \_\_\_\_\_

Director 1 / Partner 1 / Sole Trader Signature: \_\_\_\_\_ Date Signed: \_\_\_\_\_

Director 2 / Partner 2 Name: \_\_\_\_\_

Director 2 / Partner 2 Signature: \_\_\_\_\_ Date Signed: \_\_\_\_\_

*Where the applicant is a company/partnership each director/partner must sign. If there is insufficient room, please copy this page and complete for remaining directors/partners.*



**SECTION 5: PERSONAL GUARANTEE & INDEMNITY EXECUTED AND DELIVERED AS A DEED**

Made on \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

**TO:** Kaipara Ltd, Smythes Quarries Ltd and Brookby Quarries Ltd all at Beachlands (**Kaipara**)

**RE:** Customer Name: \_\_\_\_\_

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

**FROM:** Guarantor 1 Name: \_\_\_\_\_

Guarantor 1 Address: \_\_\_\_\_

Guarantor 1 Signature: \_\_\_\_\_

**WITNESSED IN THE PRESENCE OF:**

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

Witness Occupation: \_\_\_\_\_

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

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

**FROM:** Guarantor 2 Name (if applicable): \_\_\_\_\_

Guarantor 2 Address: \_\_\_\_\_

Guarantor 2 Signature: \_\_\_\_\_

**WITNESSED IN THE PRESENCE OF:**

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

Witness Occupation: \_\_\_\_\_

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

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

*If a guarantor is a company, this guarantee must be signed by two directors of the company or, if the company has only one director, by that director whose signature must be witnessed.*

IN CONSIDERATION of **Kaipara** supplying to the Customer, at the Guarantor's request, goods and/or services on credit, the Guarantor (together with the Guarantor's successors and personal representatives) **GUARANTEES** the due and punctual payment of all monies owing from time to time by the Customer to Kaipara (**Money Owing**) and **AGREES** that:

- a) If for any reason, the Customer does not pay any Money Owing when due, the Guarantor will pay to Kaipara the overdue amount on demand;
- b) As a separate obligation, the Guarantor indemnifies Kaipara on demand, against all claims made against Kaipara and/or any costs or losses incurred by Kaipara if, for any reason whatsoever, Kaipara is unable to recover any Money Owing from either the Customer or the Guarantor even if those claims, costs or losses are avoided by law;
- c) The Guarantor indemnifies Kaipara against all costs and expenses which are either incurred in or incidental to the enforcement of this deed (including legal fees on a full indemnity basis);
- d) Without in any way affecting the Customer's obligations to Kaipara, the Guarantor's liability under this deed is to be construed as if the Guarantor is the sole principal debtor for the Money Owing. The Guarantor's liability is unconditional and irrevocable and will remain in force until the Money Owing has been paid in full. The Guarantor's liability will not be discharged or affected by anything whatsoever (including any act which would affect, limit or release one liable as surety only) which, but for this clause, might otherwise discharge or affect the Guarantor's obligations under this deed. This includes, but is not limited to, any guarantee being given by another person or company in relation to the Money Owing;
- e) This guarantee and indemnity shall be a continuing guarantee and indemnity and shall not be satisfied or discharged if the Customer's account at any time or times comes into nil or credit balance or on the winding up, liquidation, dissolution, death or bankruptcy or any disclaimer by any liquidator of the Customer and/or the Guarantor but shall continue in full force and effect; and
- f) If there are more than one Guarantors, their obligations pursuant to this guarantee shall be joint and several.



**SECTION 6: CREDIT REFERENCES**

Please supply details of businesses with whom you operate or have operated a trading account within the last 6 months. Please ensure you provide an email for your references and include a landline and mobile. Please do not include credit card companies, utility companies, financial institutions, HPs, accounts paid by direct debit, and fuel companies.

**Supplier 1 Business Name:** \_\_\_\_\_

Contact Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Mobile: \_\_\_\_\_ Email: \_\_\_\_\_

How long have you held the account: \_\_\_\_\_

Monthly spend: \_\_\_\_\_

Office use: \_\_\_\_\_

**Supplier 2 Business Name:** \_\_\_\_\_

Contact Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Mobile: \_\_\_\_\_ Email: \_\_\_\_\_

How long have you held the account: \_\_\_\_\_

Monthly spend: \_\_\_\_\_

Office use: \_\_\_\_\_

**Supplier 3 Business Name:** \_\_\_\_\_

Contact Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Mobile: \_\_\_\_\_ Email: \_\_\_\_\_

How long have you held the account: \_\_\_\_\_

Monthly spend: \_\_\_\_\_

Office use: \_\_\_\_\_

**Have proceedings for the recovery of debt, bankruptcy or insolvency ever been brought against you, the company, shareholders, partners, or directors (please tick):**

Yes  No

If Yes, please provide details: \_\_\_\_\_

\_\_\_\_\_



## SECTION 7: CONDITIONS OF SUPPLY

### 1. General

- 1.1 In these Terms, the following words have the following meanings:
- 1.2 **Customer** means the person, company or other entity named at the conclusion of these Terms.
- 1.3 **Goods** means all goods supplied by the Supplier to the Customer and includes all the Goods described in invoices issued by the Supplier to the Customer.
- 1.4 **GST** means goods and services tax.
- 1.5 **PPSA** means Personal Property Securities Act 1999.
- 1.6 **Supplier** means Kaipara Limited, Brookby Quarries Limited and/or Smythes Quarries Limited (as the case may require).
- 1.7 **Terms** means these Conditions of Supply and in respect of each order of Goods from the Customer accepted by the Supplier, includes the order confirmation and invoice issued by the Supplier in respect of the relevant order.
- 1.8 Any Goods supplied by the Supplier to the Customer will be supplied on these Terms only. These Terms take precedence over any terms which may be offered by the Customer. The only circumstance where any variation to these Terms will apply is where the Supplier has expressly agreed in writing to that variation.
- 1.9 Cancellation of or variations to an order may be accepted at the sole discretion of the Supplier, on such terms as the Supplier may specify.

### 2. Quotations

- 2.1 Unless otherwise stated in writing by the Supplier:
  - (a) quotations will be open for acceptance for 30 days from date of quotation;
  - (b) where a quotation is based on dimensions, measurements, specifications or instructions, whether written or verbal, supplied by the Customer;
    - (i) acceptance of the quotation by the Customer is deemed acceptance that the Supplier has correctly interpreted all dimensions, measurements, specifications or instructions; and
    - (ii) any costs for additional work or Goods required as a result of any inaccuracy or misinterpretation of those dimensions, measurements, specifications or instructions will be for the Customer's account;
  - (c) all documents or other details submitted by the Customer with a quotation are for quotation purposes only and will not form part of these Terms;
  - (d) GST is to be added to the prices quoted and will be paid by the Customer in addition to the price quote€(e) All prices quoted are ex quarry, unless otherwise agreed in writing by the Supplier; and
  - (f) The Supplier has the right to pass on to the Customer any increase in rates or charges incurred by the Supplier between the time a price is quoted and the time of delivery.

### 3. Order confirmation

- 3.1 For each order placed by the Customer, the Supplier may issue an order confirmation.
- 3.2 The order confirmation will state the price to be paid for the Goods, the payment terms for the Goods and the delivery arrangements for the Goods.
- 3.3 The terms of the order confirmation will be binding on the Customer.
- 3.4 Sale dockets will be issued at the point of sale for all transactions.

### 4. Price

- 4.1 The price of the Goods will be the price contained in:
  - (a) the order confirmation, and if no order confirmation was issued and/or if no price is stated then;
  - (b) an accepted quotation, and if not applicable then;
  - (c) the Supplier's price list current at the date the Goods are delivered.
- 4.2 The Customer acknowledges that the Supplier may alter the Supplier's price list without notice and at any time.
- 4.3 The price of the Goods excludes any amount payable in respect of GST, which will be paid by the Customer in addition to the price.

### 5. Payment

- 5.1 The price of the Goods, plus GST, is to be paid in full in accordance with the payment terms contained in the relevant order confirmation, and if no such terms are stated, then is to be paid in full no later than the due date indicated on the relevant invoice or in the absence of a due date, the 20th of the month following date of invoice. The Supplier reserves the right to require payment for any Goods, in cash, before those Goods are delivered.
- 5.2 The Customer may not deduct or withhold any amount (whether by way of set-off, counterclaim or otherwise) from any money owing to the Supplier.
- 5.3 The Supplier may, at any time, regardless of the status of the order, change the payment terms and/or require the Customer to pay for the Goods by cash and/or provide additional security for payment. Where the Supplier requires the Customer to secure payment for the Goods, it may suspend performance of its obligations under these Terms until sufficient security, as determined by the Supplier in its absolute discretion, is provided.
- 5.4 Any payment received by the Supplier may be applied in reduction of any amount owing to the Supplier, as determined by the Supplier.
- 5.5 If full payment for the Goods is not made by the due date, the Customer will pay, at the Supplier's discretion (and without affecting any other rights the Supplier may have), on demand:
  - (a) default interest at a rate equal to 20% per annum, from the date when payment is due until the date when payment is actually made; and
  - (b) all expenses and costs (including legal costs as between solicitor and client) incurred by the Supplier in obtaining or attempting to obtain a remedy for the failure to pay.

### 6. Delivery/collection

- 6.1 Delivery arrangements will be as stated in the order confirmation and if no such arrangements are stated, will be as otherwise agreed. The Customer acknowledges and accepts that delivery may be by instalments.
- 6.2 The cost of the delivery of the Goods is as stated in the order confirmation or as otherwise agreed. The Supplier may, at the Customer's request, arrange delivery by other methods or at other times or store the Goods but will be entitled to charge the Customer for any additional costs the Supplier may incur.
- 6.3 Any timelines or delivery dates provided by the Supplier are estimates only. While the Supplier will endeavour to meet any such delivery dates, it will not be liable, nor may the Customer cancel any order, for late delivery.



- 6.4 Delivery will be considered to have been made when the Goods arrive at the delivery point stated in the order confirmation or as otherwise agreed with the Customer or, if the Customer is to arrange delivery of the Goods, when the Goods are delivered to the Customer's carrier or when the Customer otherwise collects the Goods from the Supplier.
- 6.5 If the Customer fails or refuses to take delivery of the Goods, the Supplier may (without affecting any other rights it may have) charge the Customer for any expenses or additional costs incurred by the Supplier as a result of the failure or refusal.
- 6.6 All claims for delivery of an insufficient quantity of the Goods or for delivery of the wrong Goods or for Goods damaged in transit must be made to the Supplier within 24 hours of delivery and in accordance with any procedures advised to the Customer from time to time. All other claims in relation to the Goods, including, without limitation, claims relating to quality or specifications, must be made to the Supplier within 48 hours of delivery.
- 6.7 The Supplier is not a common carrier and does not undertake the obligations or liabilities of a common carrier.
- 6.8 It is the Customer's responsibility to ensure that the Supplier has legal and suitable access to any delivery point provided always that any entry onto a site will be at the Supplier's option and sole discretion.
- 6.9 The Supplier will not be liable for any damage to the Goods or property at a delivery point where such damage could not have reasonably been foreseen by the Supplier prior to such damage occurring.
- 6.10 Where the Customer enters upon any of the Supplier's property (including any quarry or any site from which the Customer is collecting any Goods), the Customer will be liable to the Supplier for all loss and damage suffered or incurred by the Supplier arising directly or indirectly from any breach of these Terms or any negligent or reckless act or failure to act by the Customer whilst on the Supplier's property. Whilst on such property the Customer will comply with all directions given by the Supplier relating to, or for the purposes of, the Supplier's operational and safety requirements.
7. **Risk and Ownership**
  - 7.1 Risk in the Goods supplied shall pass when the Goods are delivered into the possession of the Customer, the Customer's carrier or into custody on the Customer's behalf, whichever is the earlier.
  - 7.2 Title (both legal and equitable) in the Goods will not pass to the Customer until the Goods have been paid in full.
  - 7.3 Until title in the Goods passes to the Customer, the Customer acknowledges that it holds the Goods solely as bailee and in a fiduciary capacity for the Supplier.
8. **Security Interest**
  - 8.1 To secure payment of all amounts owing to the Supplier in respect of the Goods and the performance of all other obligations of the Customer to the Supplier in respect of the Goods, the Customer grants to the Supplier:
    - (a) a general security interest (as defined in the PPSA) in all Goods supplied by the Supplier to the Customer from time to time, and all proceeds of such Goods; and
    - (b) a purchase money security interest (as defined in the PPSA) in all Goods supplied by the Supplier to the Customer from time to time, and all proceeds of such Goods.
  - 8.2 Until all amounts owing by the Customer to the Supplier in respect of the Goods have been paid and all other obligations of the Customer to the Supplier in respect of the Goods have been met, the Customer:
    - (a) must keep full and complete records of the Goods;
    - (b) must return the Goods if requested to do so by the Supplier following non-payment of any amount owing by the Customer to the Supplier or non-fulfilment of any other obligation of the Customer to the Supplier, without affecting any other rights the Supplier may have;
    - (c) gives the Supplier the right to inspect the Goods or any part of them at all reasonable times; and
    - (d) must not change its name, address or contact details without providing the Supplier with at least 30 days prior written notice.
  - 8.3 In addition, the Customer acknowledges and agrees that:
    - (a) it waives its right under the PPSA to:
      - (i) receive a copy of any verification statement;
      - (ii) receive a copy of any financing change statement;
      - (iii) receive any notice that the Supplier intends to sell the Goods or to retain the Goods on enforcement of the security interest (as defined in PPSA) granted to the Supplier under these Terms;
      - (iv) object to a Supplier proposal to retain the Goods in satisfaction of any obligation owed by the Customer to the Supplier;
      - (v) receive a statement of account on sale of the Goods; and
      - (vi) redeem the Goods;
    - (b) where any Good becomes an accession, as defined in the PPSA, the Customer waives its rights under the PPSA to:
      - (i) receive notice of removal of the accession;
      - (ii) not have any goods damaged when the Supplier removes the accession; and
      - (iii) apply to the court for an order concerning the removal of the accession;
    - (c) it must not give to the Supplier a written demand or allow any other person to give the Supplier a written demand requiring the Supplier to register a financing change statement under the PPSA or enter into or allow any other person to enter into the register of personal property securities a financing change statement under PPSA.
- 8.3 The Customer acknowledges that it has received value as at the date of first delivery of the Goods and has not agreed to postpone the time for attachment of the security interest (as defined in PPSA) granted to the Supplier under these Terms.
- 8.4 The Customer will provide all information and do all things that the Supplier may require to ensure that the Supplier has a perfected security interest in respect of the Goods under the PPSA.
9. **Warranties and Liability**
  - 9.1 All warranties, descriptions, representations or conditions, whether implied by law or otherwise, are, and, subject to clauses 6.6 and 9.5, all other liability of the Supplier, whether in contract, tort (including negligence) or otherwise is, expressly excluded to the fullest extent permitted by law.
  - 9.2 Insofar as the Supplier may be liable notwithstanding clause 9.1, to the extent permitted by law, the total liability of the Supplier whether in contract, tort (including negligence) or otherwise for any loss, damage or injury arising directly or indirectly from any defect in the Goods, or any breach of the Supplier's obligations to the Customer, is limited, subject to clause 9.5, at the Supplier's option, to:
    - (a) the price of the Goods complained of;
    - (b) the cost of repairing or replacing the defective Goods; or
    - (c) the actual direct loss or damage suffered by the Customer.



- 9.3 Except where statute expressly requires otherwise (and subject to clause 9.5), the Supplier is not liable in any event for any loss of profits or any consequential, indirect or special damage, loss or injury of any kind suffered by the Customer or any other person.
- 9.4 Subject to clause 9.5, while the Supplier will make every effort to ensure the accuracy of any advice, recommendation, information, assistance or service provided by the Supplier in relation to the Goods supplied by it or their use or application, to the extent permitted by law, the Supplier does not accept any liability or responsibility in respect of such advice.
- 9.5 If the Customer is a "consumer" under the Consumer Guarantees Act 1993 ("Act"), the Supplier will comply with its obligations under the Act, provided however that:
- (a) the Act will not apply where the Customer acquires or holds itself out as acquiring the Goods for the purposes of a business;
  - (b) subject to clause 9.5(a), nothing in these Terms affects any rights a consumer may have under the Act; and
  - (c) the Supplier does not undertake that facilities for repair of, and parts for, the Goods will be available.
- 9.6 Where the Customer is acquiring the Goods for the purpose of re-supplying them in trade, the Customer will:
- (a) include a provision in its Terms of Trade to the effect that the Act will not apply where a purchaser acquires or holds itself out as acquiring the Goods for the purposes of a business;
  - (b) notify its purchasers of the effect of clause 9.6(a);
  - (c) take reasonable action to notify its purchasers at or before the time the Goods are supplied to the purchasers that the Supplier does not undertake that facilities for repair of, and parts for, the Goods will be available; and
  - (d) indemnify the Supplier for and against any liabilities, losses, damages, claims, costs or expenses of whatever kind and nature incurred by the Supplier as a result of the Customer failing to take the action required under this clause 9.6.
- 9.7 Where the Customer is not a "consumer" under the Act, the Customer acknowledges and agrees that the Act and the Fair Trading Act 1986 will not apply between the parties and that it is fair and reasonable to exclude their application.
- 9.8 The Supplier accepts no liability for any loss, damage or injury whatsoever unless it is notified in writing as to any claim within 48 hours from the date which risk in the Goods passes to the Customer pursuant to clause 7.1.
- 10. Returns**
- 10.1 Subject to clause 6.6, Goods may be accepted for return at the sole discretion of the Supplier, on such terms as the Supplier may specify.
- 11. Intellectual Property**
- 11.1 Copyright and all other intellectual property rights in specifications and other technical information relating to the Goods are and remain the property of the Supplier.
- 12. Dimensions and Specifications**
- 12.1 The Customer acknowledges that if the Supplier is required to match the dimensions and specifications of the Goods with particular specifications or dimensions, the dimensions or specifications of the Customer, the Goods may not be an exact match.
- 13. Other Rights of the Supplier**
- 13.1 If:
- (a) the Customer breaches any of these Terms; or
  - (b) in the Supplier's opinion, the Customer is likely to be unable to meet its payment or other obligations to the Supplier; or
  - (c) the Customer becomes bankrupt, insolvent, has a receiver appointed in respect of all or some of its assets, makes or is likely to make an arrangement with its creditors, has a liquidator (provisional or otherwise) appointed or is placed under statutory or official management,
- then:
- (d) the Supplier may cancel or suspend any outstanding order with the Customer (without affecting any other rights of the Supplier);
  - (e) all amounts owing to the Supplier, whether due for payment or not, will immediately become due and payable;
  - (f) all costs incurred by the Supplier as a result of the cancellation or suspension of any order will be payable by the Customer, and will become immediately due and payable; and/or
  - (g) the Supplier may remove any Goods in the Customer's possession or control (including any Goods that have become an accession under the PPSA) and dispose of them or retain them for its own benefit and for that purpose the Supplier may, without notice, enter directly or by its agents on any premises where it believes Goods may be stored, without in any way being liable to any person.
- 13.2 If the Supplier exercises its right to reclaim any Goods, it shall be entitled to dispose of them for its own benefit and the Customer shall indemnify the Supplier for:
- (a) any shortfall incurred by it on realisation against the price at which such Goods were contracted to be bought by the Customer; and
  - (b) any costs incurred by the Supplier in the exercise of its right to reclaim the Goods, whether relating to the repossession, storage or resale of the Goods (including legal costs as between solicitors and own client).
- 14. Miscellaneous**
- 14.1 Any notice to the Customer may be given by the Supplier by posting or emailing it to the Customer's last known postal address or email address
- 14.2 Any requests by the Customer to the Supplier for copies of documentation relating to the sale of Goods may incur a charge.
- 14.3 If at any time the Supplier does not enforce any of these Terms or grants the Customer time or other indulgence, the Supplier will not be construed as having waived that term or its rights to later enforce that or any other term.
- 14.4 Where any provision of these Terms is rendered void, unenforceable or otherwise ineffective by operation of law, this will not affect the enforceability or effectiveness of any other provision of these Terms.
- 14.5 The Supplier will not be liable to the Customer for any loss or damage directly or indirectly arising out of or in connection with any delay in delivery of the Goods, or failure to perform any obligation in these Terms where such delay or failure is caused directly or indirectly by any act of God, terrorism, epidemic, pandemic, armed conflict, strike, lock-out, industrial action, flood, storm, fire, civil commotion, intervention of a government, inability to obtain labour, materials or facilities, accidents, interruptions of, or delay in transportation or any other cause beyond the control of the Supplier.
- 14.6 The Supplier has the right to unilaterally change these Terms from time to time by giving notice in writing to the Customer, such amendments to be of immediate effect. Notice may be given to the Customer by placing the updated Terms on the Supplier's website at any time. The Customer agrees to be bound by any such amendments.





- 14.7 The Supplier may assign any of its rights or obligations under these Terms without the consent of the Customer. The Customer may not assign any of its rights or obligations under these Terms without the prior written consent of the Supplier, which may be withheld at the Supplier's absolute discretion.
- 14.8 The Supply acknowledges and agrees that these Terms may be executed and returned by the Customer by transmitted electronically copy in either Tagged Image Format Files (TIFF) or Portable Document Format (PDF). The Supplier and Customer both acknowledge and agree that any such a copy shall be treated as an original, fully binding and with full legal force and effect, and the Supplier and Customer waive any rights they may have to object to such treatment.
- 14.9 These Terms will be governed by and construed in accordance with the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the Courts of New Zealand.

**SIGNED BY THE APPLICANT**

Full Legal Entity Name: \_\_\_\_\_

Director / Partner / Sole Trader Name: \_\_\_\_\_

Director / Partner / Sole Trader Signature: \_\_\_\_\_

Date Signed: \_\_\_\_\_