



## **MEMBER**

AW Swadling Timber and Hardware Pty Ltd  
**tas**  
Swadling's Timber and Hardware

ABN 75 077 645 973

# **CREDIT ACCOUNT APPLICATION**

## **TERMS OF TRADE**

## **DIRECTORS GUARANTEE & INDEMNITY**

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## Swadling's Timber and Hardware

### CREDIT ACCOUNT APPLICATION

<b>ACCOUNT NAME</b>	Customer's Legal Name:	ACN:
	Registered Trading Name:	Registration No:
	Account Contact:	Phone No:
	Email Address:	Facsimile No:
	ABN:	
Registered for GST? Yes/No		

<b>ADDRESS</b>	Shipping Address:
	Address for Invoice:

<b>TRADING DETAILS</b>	Sole Trader <input type="checkbox"/> Partnership <input type="checkbox"/> Private Company <input type="checkbox"/> Public Company <input type="checkbox"/>
	Other incorporated body <input type="checkbox"/> Municipal/Government <input type="checkbox"/> Charity <input type="checkbox"/>
	Type of Business:
	When established?
	If a subsidiary, name Parent Company:
Registered Address of Parent Company:	

<b>NAMES OF DIRECTORS/ PROPRIETORS</b>	Name:	Name:
Residential Address:	Residential Address:	
Copy of License to be provided	Drivers License No:	Drivers License No:

<b>AMOUNT OF CREDIT REQUESTED:</b>	\$	Branch:
Bankers:	Contact Name:	Telephone No:

<b>REFERENCES (not personal)</b>
Please provide names, addresses and telephone numbers of main suppliers from whom references can be obtained.
1. Telephone:
2. Telephone:
<b>REFERENCES (for Office Use only)</b>
1.
2.

<b>I/WE DECLARE THAT</b> I/we have read and understood this Credit Account Application and <i>AW Swadling Timber &amp; Hardware Pty Ltd's</i> Terms of Trade incorporated in this Application and agree to be bound by them. The information provided by me/us in this Application is true and correct. It is upon the basis of the above statements that I/We submit this Application for acceptance by <i>AW Swadling Timber &amp; Hardware Pty Ltd</i> . If any change occurs to the information provided by me/us in this Application, I/we undertake to immediately notify <i>AW Swadling Timber &amp; Hardware Pty Ltd</i> of the details of such change. I/We understand that <i>AW Swadling Timber &amp; Hardware Pty Ltd</i> may withdraw or limit credit facilities at its absolute discretion without notice.	
<b>SIGNATURE OF AUTHORISED PERSON</b>	<b>NAME OF PERSON</b>
<b>TITLE:</b>	<b>DATE OF APPLICATION</b>

Swadling's Timber and Hardware

CREDIT ACCOUNT APPLICATION

DIRECTORS' GUARANTEE & INDEMNITY

**At the request of the Customer and the Guarantors *AW Swadling Timber & Hardware Pty Ltd* agrees to provide credit to the Customer in consideration of this guarantee and indemnity being given by the Guarantors**

**1. Guarantee**

The Guarantor guarantees to *AW Swadling Timber & Hardware Pty Ltd* prompt performance of all of the Customer's obligations contained or implied in this Application. If the obligation is to pay money, *AW Swadling Timber & Hardware Pty Ltd* may recover the money from the Guarantor as a liquidated debt.

**2. Indemnity**

In addition to the Guarantor's liability under this Guarantee and Indemnity the Guarantor indemnifies *AW Swadling Timber & Hardware Pty Ltd* against loss suffered because the Applicant is not bound by some or all of its obligations under this Application.

**3. Liability of Guarantor**

The Guarantor's liability under paragraphs 2 and 3 is not affected by:

- (a) the granting of any time, forbearance or other concession by *AW Swadling Timber & Hardware Pty Ltd* to the Customer or any Guarantor;
- (b) any absolute or partial release of the Customer or any Guarantor or any compromise with the Customer or any Guarantor;
- (c) any variation of this Application;
- (d) the termination of this Application;
- (e) the fact that this Application is wholly or partially void, voidable or unenforceable;
- (f) non-execution of this Application by one or more of the persons names as Guarantor or the unenforceability of this guarantee or indemnity against one of the Guarantors; or
- (g) the exercise or purported exercise by *AW Swadling Timber & Hardware Pty Ltd* of its rights under this Application.

**4. Guarantor Liability Regardless of Any Law**

The Guarantor's liability is not discharged by any payment to *AW Swadling Timber & Hardware Pty Ltd* which is later avoided by law. If that happens, *AW Swadling Timber & Hardware Pty Ltd*, the Customer and the Guarantor will be restored to their respect rights as if the payment had not been made.

**5. Indemnity on Disclaimer**

If a liquidator disclaims this Application, the Guarantor indemnifies *AW Swadling Timber & Hardware Pty Ltd* against any resulting loss.

**6. Guarantor Not To Prove in Liquidation**

- (a) The Guarantor must not prove or claim in any liquidation, composition, arrangement or assignment for the benefit of creditors until *AW Swadling Timber & Hardware Pty Ltd* has received all money payable to it by the Customer.
- (b) The Guarantor must hold any proof, claim or dividend received by it on trust for *Australian Ironwood Antique Pty Ltd*.

**7. Guarantee to Continue**

If the business of *AW Swadling Timber & Hardware Pty Ltd* is sold, the benefit of this Guarantee and Indemnity extends to the transferee and continues concurrently for the benefit of *AW Swadling Timber & Hardware Pty Ltd* regardless of the transfer unless *AW Swadling Timber & Hardware Pty Ltd* releases the Guarantor in writing.

**8. Application**

Each Guarantor has read and understood this Application and *AW Swadling Timber & Hardware Pty Ltd*'s Terms of Trade incorporated in the Application and agree to be bound by them.

**9. Joint & Several Liability**

The liability of each Guarantor under this Guarantee and Indemnity is joint and several.

SIGNATURE of Guarantor:

.....  
*Print Name*

.....  
*Signature*

.....(1) Dated: .....

SIGNATURE of Guarantor:

.....  
*Print Name*

.....  
*Signature*

.....(2) Dated: .....

## Swadling's Timber and Hardware

### TERMS OF TRADE

*AW Swadling Timber & Hardware Pty Ltd (Ironwood)* will only agree to supply and deliver goods and services to the Customer upon the following conditions:

#### 1. PRICES NET OF TAXES AND FREIGHT

Prices quoted, unless otherwise stated, are net, exclusive of freight charges, sales tax or goods and services tax ("GST"). Prices for goods are subject to change without notice. Sales tax or GST, where applicable, will be charged at the appropriate rate ruling at the date of invoice. The cost of any special packing and packaging materials used in relation to the goods shall be at the customer's expense. Freight will be charged at prevailing rates.

#### 2. DELIVERY

Any time quoted by *AW Swadling Timber & Hardware Pty Ltd* for delivery of goods or services is an estimate only and *AW Swadling Timber & Hardware Pty Ltd* is not liable for late delivery, or non-delivery, for any reason. If *AW Swadling Timber & Hardware Pty Ltd* is delayed by any circumstance or event beyond its control, then it may suspend delivery or extend the delivery or supply time. *AW Swadling Timber & Hardware Pty Ltd* shall not be liable to the Customer for any consequential loss or damage arising from such delay or non delivery or non supply. The Customer must notify *AW Swadling Timber & Hardware Pty Ltd*, in writing, within seven (7) days of the despatch of the goods by *AW Swadling Timber & Hardware Pty Ltd*, of any damaged goods or goods which were not delivered as ordered.

#### 3. PAYMENT

Payment of the invoiced amount, including sales tax or GST, must be received, without deduction, by *AW Swadling Timber & Hardware Pty Ltd* within thirty (30) days after the end of the month during which the goods or services were invoiced. If the Customer commits any act of insolvency, all money due and owing by the Customer to *AW Swadling Timber & Hardware Pty Ltd*, whether by way of credit or otherwise, will become due and payable immediately. *AW Swadling Timber & Hardware Pty Ltd* reserves the right to suspend, with or without notice, any deliveries of goods or services if any payment due by the Customer to *AW Swadling Timber & Hardware Pty Ltd* is overdue. The Customer must pay interest on the overdue amount, at 12 percent per annum, from the due date for payment until paid. The Customer must pay all costs and expenses (including legal costs) which may be incurred by *AW Swadling Timber & Hardware Pty Ltd* in the attempted recovery of the overdue amount.

#### 4. RISK IN THE GOODS

The risk in the goods shall pass to the Customer when the goods are despatched by *AW Swadling Timber & Hardware Pty Ltd* to the address for delivery specified by the Customer or upon collection of the goods by the Customer's agent or carrier as the case may be. *AW Swadling Timber & Hardware Pty Ltd* is not responsible for any loss or damage to goods in transit.

#### 5. TITLE TO PASS UPON PAYMENT

Title to the goods shall not pass to the Customer until payment for the goods is received by *AW Swadling Timber & Hardware Pty Ltd*. If the Customer does not pay for any goods in accordance with these Terms of Trade, *AW Swadling Timber & Hardware Pty Ltd* is hereby irrevocably authorised by the Customer to enter the Customer's premises (or any premises under the control of the Customer or as agent of the Customer if the goods are stored at premises) and use reasonable force to take possession of the goods without liability for the tort of trespass, negligence or payment of any compensation to the Customer whatsoever.

#### 6. DISCLOSURE OF CUSTOMER INFORMATION

The Customer authorises *AW Swadling Timber & Hardware Pty Ltd* to obtain a credit report concerning the Customer's credit worthiness and consents to any credit report concerning the Customer being made available to *AW Swadling Timber & Hardware Pty Ltd* for the purpose of assessing the credit worthiness of, or the prospect of future dealings with the Customer or the accuracy of information provided by the Customer to *AW Swadling Timber & Hardware Pty Ltd*, from time to time. The Customer further authorises *AW Swadling Timber & Hardware Pty Ltd* to exchange or disclose any information concerning the Customer's credit worthiness with or to any person or source. The Customer acknowledges that information may be disclosed to a credit reporting agency as permitted under the Privacy Act 1988, as amended.

#### 7. CUSTOMER'S SPECIAL ORDER

*AW Swadling Timber & Hardware Pty Ltd* reserves the right to demand a deposit for orders of non stock items or for the manufacture of goods to Customer's specifications. *AW Swadling Timber & Hardware Pty Ltd* shall not be responsible for errors in Customer's specifications. Customer may not cancel such orders without the written consent of, and on terms

satisfactory to *AW Swadling Timber & Hardware Pty Ltd*. *AW Swadling Timber & Hardware Pty Ltd* will not accept returns of goods made to Customer's specifications unless defective.

#### 8. RETURN FOR CREDIT

All cancellations and returned goods must be notified in writing and must be made within thirty (30) days of the invoice date to receive a credit. No credit will be given for returns outside this period. Such notification should state the date and number of the invoice and the reason for return (e.g. faulty, damaged, wrongly delivered, or late delivery of back order). Approval to return goods for credit must first be obtained from *AW Swadling Timber & Hardware Pty Ltd* who shall have an absolute discretion in granting any such approval and the terms of any such approval. All goods returned for credit are to be clearly consigned to *AW Swadling Timber & Hardware Pty Ltd* and must be in the original packaging and in a saleable and undamaged condition.

If *AW Swadling Timber & Hardware Pty Ltd* accepts that the reason for the claim for credit is due to *AW Swadling Timber & Hardware Pty Ltd*'s fault then the cost of freight shall be borne by *AW Swadling Timber & Hardware Pty Ltd*, otherwise the cost of freight will be borne by the Customer.

#### 9. LIMITATION OF LIABILITY

To the fullest extent permitted by law, *AW Swadling Timber & Hardware Pty Ltd* and its servants and agents are not liable for any loss or damage (including without limitation loss or damage caused by the negligence of *AW Swadling Timber & Hardware Pty Ltd* or its servants or agents and incidental and consequential loss or damage) arising from or in connection with the supply of goods or services.

To the extent permitted by law, the liability of *AW Swadling Timber & Hardware Pty Ltd* or its servants or agents (including liability for negligence) is limited to:

- (i) in the case of goods, the replacement or re-supply of equivalent goods or the cost of such replacement or re-supply (whichever is the lesser); and
  - (ii) in the case of services, the re-supply or the cost of the re-supply of such services (whichever is the lesser).
- AW Swadling Timber & Hardware Pty Ltd* is not liable for any loss or damage the Customer may suffer if *AW Swadling Timber & Hardware Pty Ltd* cannot do what it has promised because of events beyond its reasonable control.

#### 10. ENTIRE AGREEMENT

The Customer acknowledges that these Terms of Trade constitute the entire agreement of the parties as to the supply of goods or services by *AW Swadling Timber & Hardware Pty Ltd* to the Customer and prevail over any conditions which the Customer may seek to introduce in the Customer's purchase order. These Terms of Trade may not be varied without prior written agreement of *AW Swadling Timber & Hardware Pty Ltd*.

#### 11. WAIVER

The failure, delay, relaxation or indulgence on the part of *AW Swadling Timber & Hardware Pty Ltd* in exercising any power or right conferred upon *AW Swadling Timber & Hardware Pty Ltd* by these Terms of Trade does not operate as a waiver of that power or right, nor does any single exercise of any power or right preclude any other or further exercise of it or the exercise of any other power or right under these Terms of Trade.

#### 12. GOVERNING LAW

These Terms of Trade shall be construed in accordance with the law in force in New South Wales, Australia and the parties agree to submit to the jurisdiction of the Courts of that State.

#### 13. SEVERANCE

These Terms of Trade are qualified by any provision of a law which applies and which cannot be excluded. If any provision of these Terms of Trade is deemed to be unlawful or unenforceable, such provision shall be severed from these Terms of Trade and all other provisions hereof shall remain in force to the fullest extent permitted by law.