



APPLICATION FOR CREDIT and TERMS OF TRADE - (Goods acquired for the purpose of a business)

1. COMPANY DETAILS AND GENERAL INFORMATION:

Full Legal Name: _____

Trading as: (the "Customer") _____

Type of Business: _____

Person Acting on Behalf of the Customer: _____

Postal Address: _____

Business Address: _____

Telephone Number: _____ Facsimile: _____

Mobile Number: _____

Email Address: _____

Solicitor: _____

Accountant: _____

2. FOR PARTNERSHIP / SOLE TRADERS / PRIVATE INDIVIDUALS: (Limited Liability Companies please go to Section 3)

Type of Organisation (Circle one): PARTNERSHIP / SOLE TRADER / PRIVATE INDIVIDUAL

Person Acting on Behalf of the Customer: _____

Residential Address: _____

Date of Birth: _____ Drivers Licence: _____ (8 characters)

Drivers Licence 5b: ___ ___ ___ (3 Characters)

3. FOR LIMITED LIABILITY COMPANIES:

Year of Registration: _____ Paid up Share Capital: _____

Company Number (Including Alphabetical Registry Code): _____

1. Name:	DOB:	Residential Address:
Drivers Licence: _____ (8 char.)	5b on licence: _____ (3)	Shares Held:
2. Name:	DOB:	Residential Address:
Drivers Licence: _____ (8 char.)	5b on licence: _____ (3)	Shares Held:
3. Name:	DOB:	Residential Address:
Drivers Licence: _____ (8 char.)	5b on licence: _____ (3)	Shares Held:

Manager: _____ Company Secretary: _____

Person Acting on Behalf of the Customer: _____

4. TRADE REFERENCES: (Please do not include utility accounts such as phone, power etc.)

Name:	Address/Phone:	Account # / Name:



IMPORTANT If you don't complete the Trade References and sign the Declaration, Personal Guarantee, privacy clause and Terms and Conditions (see back page), we cannot open your account.

5. DECLARATION:

On making this application, I/We warrant to the company that I/We are authorised to enter into the contract on the customers behalf and I/We acknowledge that the information supplied is true and correct and that the attached terms of trade are understood and accepted. It is also acknowledged that a copy of the credit application form and the terms of trade have been retained by the company and that I/We have received our advice as to the existence and effect of a Romalpa Clause in the attached terms of trade, and the granting of a Purchase Money Security Interest under the Personal Property Securities Act 1999 and the right to a mortgage for unpaid debts.

Signed by a duly authorised Signatory of the Customer:

Date:

Full Name:

Title:

6. PERSONAL GUARANTEE: (To be completed by Limited Liability Companies)

In consideration of the provisions of credit to _____ Limited (the Customer)
(Name of Company in full)

I of _____

(Full Name)

(Residential Address)

and

I of _____

(Full Name)

(Residential Address)

being director(s)/shareholder(s) of the customer together with my/our personal representatives, hereby jointly and severally guarantee to South Pacific Timber (1990) Ltd (together with its assignees) ("the Company) the due and punctual payment by the customer of all moneys from time to time owing by the company in terms of the terms of trade and the due performance of those terms and conditions. The granting of time, waiver of any breach or other concession by the company or the forbearance of the company to enforce any of the terms of trade shall not release any guarantee. As between the Company and the Guarantor(s) this Guarantee shall be constructed as an identity.

Signature(s):

Date:

Witnessed: pp South Pacific Timber (1990) Ltd:

Date:

7. PRIVACY CLAUSE:

The customer hereby agrees and authorises South Pacific Timber (1990) Ltd to obtain information about the customer and/or company directors from the customer or any third party or to divulge any such information to any third party in the course of South Pacific Timber (1990) Ltd's business activities including but not limited to any credit or debt collection agency for the purpose of credit assessment or debt collection and any direct marketing activities. The information collected will be retained by South Pacific Timber (1990) Ltd for the duration the customer holds an account or continues to purchase Goods or Services from South Pacific Timber (1990) Ltd or, in the opinion of South Pacific Timber (1990) Ltd, may do so in the future. The customer will be provided with access to the information held by South Pacific Timber (1990) Ltd for review or corrective purposes.

Signature(s):

Date:

Please sign attached Terms of Trade to ensure your application will be processed



1. General

- (a) The Company accepts that to the extent permitted by law the customer's on these conditions which conditions (together with the Company's acceptance) constitutes the entire agreement between the Company and the customer (except to the extent that such terms and conditions are modified in writing and signed by both parties) and it is expressly agreed that there are no other understandings, representations or warranties of any kind (express or implied) forming part of this contract.
- (b) Any variation, waiver or cancellation of the customer's order shall be of no effect unless accepted in writing by the Company. Where the Company accepts cancellation the Company may levy a handling charge up to 25% of the price, in the case of non processed orders, and 50% of the price in respect of processed orders.
- (c) Placement by the customer of any order with the Company by the customer constitutes an acknowledgement by the customer that the contract between the customer and the Company shall be governed by these terms of trade.
- (d) If any terms or conditions or part thereof contained in these terms of trade are held to be invalid, illegal, unenforceable or void for any reason or reasons, all of these remaining terms and conditions (or part thereof) shall remain in full force and effect.
- (e) The customer agrees that in the event of default of settlement of any account due, the customer shall pay upon demand, all reasonable costs, charges and legal expenses (including costs between solicitor and own client) including any collection costs incurred by the Company in recovering the outstanding account from the customer.

2. Price and Terms of Payment

- (a) The Company's prices are subject to alteration without notice and the price payable by the customer for the goods ordered shall be the price agreed to between the Company and the customer or in the absence of such agreement the price ruling at the date the goods are dispatched. The onus is on the customer to confirm prices prior to delivery.
- (b) The Company's prices referred to in this contract and in any quotation which may have formed the basis of this contract are exclusive of Goods and Services Tax. The customer shall pay Goods and Services Tax on the goods or services, the subject of this contract, and the amount of each payment payable under this contract shall be increased accordingly.
- (c) All accounts are due for payment on the 20th day of the month following the month in which the goods (or any installment of the goods) are either delivered or complete their final processing (as the case may be).
- (d) Without prejudice to its rights to sue for payment or exercise any other remedy where any payment is not made on the due date the Company may:
- (i) Reinvoice goods at the then current full retail price.
 - (ii) Charge the customer interest on the amount outstanding at the rate equal to 1.5% per month, calculated daily, from the due date of payment until payment is received by the Company but the charging of interest does not extend the time for payment nor imply the forbearance to sue or otherwise recover overdue monies.
 - (iii) Demand payment of the arrears as well as payment in advance for any undelivered goods before proceeding with making any further delivery of goods under the contract.

3. Delivery

- (a) The Company may withhold delivery in terms of clause 2 above.
- (b) If the customer fails or refuses or indicates to the Company that the customer will fail or refuse to take or accept delivery, the goods shall be deemed delivered when the Company was willing to deliver them.
- (c) Where the Company acknowledges an order which provides for delivery by installments, the Company shall be entitled to payment for each installment delivered (as if it were a separate contract) but failure to deliver any installment shall not entitle the customer to repudiate the contract as to any remaining installments.
- (d) Any quotations of delivery times by the Company are made in good faith but as estimates and not commitments. The Company shall not be bound by such estimates.
- (e) Proof of delivery information will not be provided by the Company beyond 60 days from date of invoicing.

4. Shortages

The Company's liability for shortages in the quantity of the goods supplied is limited to making up the shortages. No claim for shortages in quantity will be allowed unless the customer gives written notification of the shortage in writing within 3 days of delivery and provides a reasonable opportunity for the Company to take all necessary steps to investigate the claim. Where, at the Company's total discretion, variances in timber grades necessitate docking the loss of timber arising from such docking shall not constitute a shortage in the quantity of goods supplied.

5. Ownership Risk and Loss in Transit

- (a) (i) Ownership in and title to the goods ("title") shall not pass to the customer until the Company has received payment in full of all monies owing by the customer to the Company.
- (ii) The customer acknowledges that until title to the goods passes to the customer in accordance with this Clause 5 the customer holds the goods as

bailee of the Company and that a fiduciary relationship exists between the customer and the Company.

- (iii) Until title in and to the goods passes to the customer in accordance with this Clause 5 the customer shall store the goods separately and in a manner so that they are clearly identified as the property of the Company. The Company shall be entitled at any time until title in and to the goods passes to the customer to demand the return of the goods and shall be entitled without notice to the customer and without liability to the customer to enter any premises occupied by the customer to search for and remove the goods.
- (b) Risk (including, without limitation, insurance responsibility) of any loss, damage or deterioration of or to the goods shall pass to the customer on collection of the goods by the customer from any of the Company's yards or the passing of the goods to a carrier (including, without limitation, the Company's own delivery vehicles for delivery).
- (c) Claims made for damage or loss in transit must be made against the Company in the prescribed manner:
- (i) Prior to acknowledging delivery to the carrier or the Company's delivery person the customer must ensure that the complete consignment as per the delivery note has been received.
 - (ii) Should there be a shortage or visible damage to the goods the delivery note must be endorsed by the customer accordingly.
 - (iii) Within 2 days of receipt of consignment the customer must ensure that all product received are received in good order and condition.
 - (iv) Maintain the goods so supplied in good order and condition and to return the goods immediately if called upon to do so by the Company.
- (d) The customer hereby agrees to meet all costs of any incidentals in the recovery of the said goods as well as any shortfalls between the amount owing and the value of the goods recovered.
- (e) Notwithstanding the retention of ownership, the customer may prior to payment in full, as agent for the Company, sell the goods under a bona fide transaction in the ordinary course of business not intended to deprive the Company of the benefit of the retention of title. In the event of a sale of the goods (including without limitation affixing the goods to any premise) or any of them prior to payment in full the customer shall, as trustee for the Company;
- (i) Hold all monies received by the customer on such sale of the goods separate from the customer's own money and in the name of the credit of the Company and the customer will on request from the Company pay such proceeds to the Company.
 - (ii) Hold all claims against the purchasers of any such goods who have not made payment for the same in trust for the Company and the Company may in any of the Events either in its own name or in the name of the customer make claim to and issue proceedings to recover the sale price of such goods. If called upon to do so by the Company, the customer shall assign to the Company all rights against the person to whom the goods have been sold.
- (f) The Company shall be entitled forthwith to cancel the customer's rights under the terms of trade by notice to the customer if the customer defaults in payment on the due date, time for which is strictly of the essence or fails to comply with any of these general conditions or any terms of any particular contract of sale between the Company and the customer, or if the Company receives any information which, in the opinion of the Company, indicates uncertainty as to the customer's ability to meet its financial commitments. The right of cancellation under this clause 5(f) is in addition to any other right of cancellation the Company may have whether pursuant to these general conditions or any particular contract of sale, or any statute or at common law or in equity.
- (g) If any one or more of the Events occurs, or upon cancellation under clause 5(f), or upon cancellation pursuant to any other right, the customer hereby gives the Company irrevocable authority, without prejudice to any other rights or remedies of the Company, to:
- (i) Recover possession of all goods in respect of which the Company has retained title whether or not such goods are fixed to any premises, including processed goods, either by removing the goods from the possession or control of the customer's purchaser or by impounding the goods in any premises occupied by or under the control of the customer, the duly appointed liquidator or receiver of the customer, the customer's purchaser, or the duly appointed liquidator or receiver of the customer's purchaser.
 - (ii) Enter any premises, and if need be forcibly, for the purposes of repossessing or impounding any goods whether or not such goods are fixed to any premises, and, in such event the customer shall indemnify the Company against all claims that may be made upon the Company as a consequence of the Company's exercising such power of entry and removal.
 - (iii) Employ the services of any person or enter upon the premises occupied by or controlled by the customer to exercise any of the rights contained in clauses 5(f)(i) and (ii).
 - (iv) Give notice to any third party of the Company's rights pursuant to these general conditions and of the exercise of any of the Company's rights or remedies and the customer shall have no claim against the Company for any loss, direct or indirect, suffered by the customer as a consequence of such notice being given by the Company.
- (h) Upon termination of the customer's rights pursuant to clause 5(f), or pursuant to any other right of the Company, and without prejudice to any other rights or remedies of the Company, the Company shall be entitled to sell all goods fully or partly owned by the Company and the following further provisions shall apply:



- (i) On the sale by the Company of any unprocessed goods in respect of which full title has been retained by the Company, the Company shall be entitled to retain the total proceeds of sale and shall have no obligation to account to the customer for any part of the proceeds of sale provided that if the total proceeds of sale exceed in value all sums owned by the customer to the Company pursuant to all contracts between the customer and the Company less any diminution in the value of the unprocessed goods, then the Company shall have no further claim on the customer and shall refund to the customer the difference between the sale price and the total indebtedness of the customer to the Company.
- (ii) In the case of processed goods, the Company is empowered to sell such goods on behalf of the customer and the Company for their respective rights and interests and shall account to the customer for the customer's share of the proceeds, whether or not any moneys may still be due from the customer to the Company.

6. Security and the Personal Properties Securities Act 1999

- (a) The customer grants and creates in favour of the Company:
 - (i) In accordance with these terms of trade a purchase money security interest ("PMSI") in the Goods with the meaning of the Personal Properties Securities Act 1999 ("PPSA") and;
 - (ii) The right to register a financing statement under the PPSA for the Goods supplied (for which express purpose credit has been extended) to create a purchase money security interest ("security interest") (as that term is defined in the PPSA).
- (b) The customer agrees:
 - (i) To pay and that its accounts with the Company may be charged with the cost of registration of the PMSI and all other costs associated with perfection and enforcement of the PMSI (including the Company's full solicitor/own client costs).
 - (ii) That the PMSI is to extend to the proceeds of any sale of the goods, any book debts arising where the customer has sold but not been paid for the goods and where the goods have been mixed with any other goods a proportionate share of the mixed goods.
- (c) To the extent permitted by law and so far as permitted by s107 of the PPS Act:
 - (i) The customer by these terms contracts out of and waives the customer's rights under s114, s120 and s133 of the PPSA including the right to receive any notices.
 - (ii) The customer waives its rights to receive a verification statement in respect of any financing statement or financing change statement registered by the Company.
 - (iii) The customer agrees to the Company exercising its rights under s109 and s120 concurrently and to the Company retaining any repossessed goods immediately so that the Company's rights under s123 of the PPSA shall become effective immediately upon repossession.
 - (iv) The customer agrees that repossession and retention of the Goods under s120 - 123 of the PPSA will only satisfy so much the customer's debt to the Company as is equivalent to the Company's estimation of the market value of the Goods in the condition the Goods are in at the date of repossession and the repossession and retention will immediately extinguish any rights and/or interest the customer has in the Goods.
- (d) The customer indemnifies the Company for any claims (including legal costs) against the Company including any claims as a result of any default by the customer, for the Company's repossession and retention and any attempts to repos-

sess retain or enforce the Company's rights in relation to the Goods and for any claims brought in by any third party.

- (e) The customer acknowledges that the Company may allocate any monies it receives from the customer towards debts, charges and expenses (including legal costs incurred by the Company) in any priority the Company determines to maintain the PMSI in the Goods.
- (f) In addition to or as an alternative to its other rights that the Company may have for payment of the purchase price, if payment for the goods has not been made by the due date then in addition to other remedies under these terms of trade the Company may require that the customer execute an on demand mortgage over the customer's land (whether the customer's land is the land to which the goods have been delivered or any other land owned by the customer) for the payment owed by the customer to the Company. The mortgage is to be in the form of the Auckland District Law Society mortgage all obligations form (approval number 1995/2007) and incorporating the provisions of memorandum registered under number 1995/4004.

7. General Matters

- (a) The customer shall do all things necessary including sign all documents and provide all information necessary to provide to the company any rights and security referred to in these terms of trade and to give effect to and protect the Company's rights under the Terms of Trade.
- (b) The customer and the Company each agree that their respective addresses are as stated in the account application completed by the customer. Service may be validly effected on either party by leaving documents at the registered office or for the customer at the customer's last known address or last known delivery address or by post by registered letter addressed to that party at any such address or by delivering any document to any person who is named on any public register or in the account application as a director or secretary or principal of the customer. If the customer changes its address it shall notify the Company of the change of address and until it does so service may be validly effected at the last address known to the company in accordance with this clause.

8. Force Majeure

The Company shall 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 term of this contract where such delay or failure is caused directly or indirectly by an act of God, fire, armed conflict, labour dispute, civil commotion, intervention of a government.

I _____ (the customer) acknowledge that I/We have understood, accepted the above terms of trade, have retained a copy of the same, and has received oral advice as to:

- (a) The existence of a reservation of title clause (Romalpa clause) in the form contained in clause 5.
- (b) The granting of a purchase money security interest and right to a mortgage if the customer defaults (clause 6).

Signed

Name

Occupation/Position

Date



IMPORTANT!
Please sign here