

Application for Commercial Credit

I [.....], **HEREBY** certify that I am authorised to make and sign this Application for Commercial Credit on behalf of the Customer and that the information given by me is true and correct to the best of my knowledge and belief.

SIGNATURE: [.....]



DATE: [.....]

NAME: [.....]

CUSTOMER: [.....]

POSITION: [.....]

TRADING NAME: [.....]

ABN: [.....]

I ~ Terms & Conditions

The Customer by its signature hereunder agrees to abide by the terms and conditions herein.

- A. **Prostud Global** reserves the right to grant or deny the Customer the provision of a commercial credit facility at all times in its absolute discretion.
- B. The Customer warrants that the information provided to Prostud **Global** is accurate, correct, complete and is supplied for the purpose of obtaining credit on the terms and conditions herein.
- C. These terms apply to all purchases of goods and services from **Prostud Global** which **Prostud Global** may alter at any time. Additional terms of sale apply to specific classes of goods and services. These additional terms of sale may be attached to quotations, estimates, price lists and other documents and are also available on request.
- D. **Prostud Global** is authorised to obtain, from a credit-reporting agency, details of the Customer's personal and commercial credit information, if required by **Prostud Global** for the purpose of assessing this application.

1. PRICE & PAYMENT

- 1.1 Prices will be the prices current at the time of delivery plus freight, handling and GST, unless otherwise agreed in writing. All prices are stated in Australian dollars. All prices quoted are strictly net of all discounts. Any sales tax, goods or services or similar government taxes are additional to the quoted price.
- 1.2 All amounts owing to Prostud Global are to be paid within 30 days from the date of invoice but in any event by no later than the last working day of the month following the month of invoicing.
- 1.3 Interest may be charged on all overdue amounts, calculated at the Westpac Banking Corporation overdraft rate plus two percent, unless otherwise agreed in writing.

2. TITLE TO GOODS

- 2.1 All goods shall remain the property of Prostud Global until such time as it has received payment in full for the goods. Accordingly, if the Customer's account is in default, Prostud Global has the right to enter the Customer's premises (or the premises of any associated company or agent) to retake possession of the goods, without liability for trespass or damage. If the Customer resells the goods, or products manufactured using the goods, then the Customer must keep the proceeds of the sale in a separate identifiable account until Prostud Global has been paid in full.
- 2.2 The risk in the goods however passes to the Customer on

delivery. Prostud Global is not liable for any claim or

loss arising from the loading, transporting or unloading of goods that the Customer has collected.

- 2.3 Pallets remain the property of Prostud Global and are not included in the sale unless prior agreement has been reached in writing. The Customer agrees to be liable to Prostud Global for any loss or damage to the pallets which occurs whilst in its possession, subject to fair wear and tear.

3. DUTY OF DISCLOSURE

- 3.1 The Customer warrants by signing this application for credit that it is not aware of any information, notice or court procedures that may lead to bankruptcy, appointment of an administrator, controller or managing controller, receiver or receiver manager or liquidator.
- 3.2 The Customer does not intend to enter into any scheme of arrangement with creditors, either formally through a court or otherwise. None of the directors, partners or proprietors has been a director of a company placed in liquidation or has been declared bankrupt or has entered into an arrangement under the Bankruptcy Act 1966 (as amended).

4. VARIATION OF THE AGREEMENT

- 4.1 Prostud Global may withdraw credit, withhold supply, or put the Customer's account on hold, at any time and without prior notice in Prostud Global's absolute discretion.
- 4.2 Prostud Global may assign its rights under this agreement with or without the Customer's prior consent.
- 4.3 Prostud Global may at any time, change the terms of credit and terms of sale if Prostud Global gives the Customer written notice of the change.

5. TERMINATION OF THE AGREEMENT

- 5.1 The Customer's account may be closed by either party on seven days' written notice.
- 5.2 The Customer's account will be closed without notice if the Customer does not use it for 12 months.
- 5.3 The Customer must settle any outstanding amounts at the time the Customer's account is closed.

6. DELIVERY

- 6.1 Prostud Global will endeavour to deliver or pick-up on the agreed delivery dates but Prostud Global will not be liable for any delay or failure in delivery or pick-up. Any date of intended delivery is given subject to the goods ordered being available and the ability of Prostud Global to effect delivery by that date.

- 62 The Customer will be responsible for the provision of free and suitable access to and from the delivery site and for ensuring suitable ground conditions for the delivery, placement and removal of the goods.
- 63 The Customer indemnifies Prostud Global and its carrier against any claim for damages resulting from the entry of the carrier's vehicle onto the delivery site.
- 64 Prostud Global will deliver the goods to the delivery address shown on the Customer's order. Prostud Global will unload the goods at curb side adjacent to the delivery address unless:
- 65 The Customer asks Prostud Global to unload the goods or pick up shredded waste paper elsewhere,
- 66 The Customer provides council-approved crossings over kerbs and footpaths; and
- 67 The carrier is satisfied that access is safe and reasonable.
- 68 Prostud Global may charge waiting time if the carrier is delayed at the Customer's site for more than one hour for reasons beyond the carrier's control.

7. RECOVERY COSTS FOR DEBT COLLECTION, LEGAL COSTS AND INTEREST

- 71 The Customer must pay any dishonoured cheque fees associated with cheques received by Prostud Global in payment of any account.
- 72 The Customer must pay any costs of recovery or attempting to recover outstanding fees and charges if the Customer's account is in default, including legal costs on a full indemnity basis.
- 73 If the Customer defaults in making any payment in accordance with these agreed trading terms, then all monies due to
- 74 Prostud Global shall immediately become due and payable.
- 75 The Customer must pay interest on all overdue amounts, calculated at the Westpac Banking Corporation overdraft rate plus two percent, unless otherwise agreed in writing.

8. WARRANTIES AND REPRESENTATIONS

- 81 Prostud Global makes no warranties or representations about goods offered for sale other than warranties contained herein.
- 82 Prostud Global warrants that only goods offered for sale will be generally similar to other goods of the same description.
- 83 The Customer accepts that any particular delivery of goods may vary from goods of the same description displayed, advertised, or delivered on a different occasion.
- 84 To the fullest extent permitted by law, all terms, conditions, and warranties, statutory or otherwise, not expressly provided in these terms of sale, are excluded.
- 85 To the extent that any term, condition, or warranty not expressly provided in these terms cannot be excluded due to the provisions of section 68A of the Trade Practices Act 1974, or any other statute, and Prostud Global breaches such term, condition, or warranty, or the Customer makes a claim as provided below and Prostud Global agrees that the goods were damaged or defective at the time of delivery, Prostud Global's liability is limited to (at Prostud Global's option) replacing the goods or crediting the Customer with the purchase price of the goods.

9. CLAIMS

- 91 Prostud Global is not liable for any loss or damage the Customer suffers as a result of Prostud Global's failure or delay in performing the contract due to reasons beyond the control of Prostud Global.
- 92 Prostud Global will consider a claim for credit if the claim:
- 93 relates to an error on Prostud Global's part in delivery or invoicing, or
- 94 relates to significant defects or damage and
- 95 has been notified by telephone within 48 hours of delivery and in writing within 7 days.

10. SECURITY

By the signature of the Customer hereunder, the Customer, in consideration of Prostud Global agreeing to grant credit to the Customer—

- 101 hereby charges all real property in which it has title or interest, now or in the future with the payment of all monies which shall be owing by the Customer to Prostud Global from time to time; and
- 102 hereby consents to the lodging by Prostud Global of a caveat or caveats which note Prostud Global's interest in that real property.

11. WAIVER

If at any time **Prostud Global** does not enforce any of these terms or grant the Customer time or other indulgence, this will not constitute a waiver of that term or **Prostud Global's** rights to later enforce that or any other term.

12. SEVERABILITY

If any portion of these terms is deemed to be invalid, illegal or unenforceable, the remaining provisions shall remain in full force and effect.

13. GOVERNING LAW

The parties agree that these terms and conditions shall be governed and construed in accordance with the laws of the State of Victoria and the parties agree to submit to the jurisdiction of the Courts of this State.



Signature.....

II ~ Guarantee and Indemnity

I/WE, the undersigned (including electronic signatures) being the Proprietor(s) or Director(s) ("the Guarantor") of ("the Customer") of [.....]
(*"the Customer" - company name*)

IN CONSIDERATION of **Prostud Global** agreeing to supply goods or services from time to time on credit to the Customer jointly and severally hereby guarantee to **Prostud Global** the due and punctual payment which is now payable or may in the future become payable by the Customer for goods and services supplied from time to time by **Prostud Global**.

1. INDEMNITY BY GUARANTOR

I/WE (the Guarantor) hereby agree to indemnify **Prostud Global** against all losses, damages, costs, legal, collection and repossession expenses which may be incurred with **Prostud Global** by reason of default on the part of the Customer in performing and observing the terms and conditions of the Application for Commercial Credit, in particular, the Guarantor unconditionally guarantees to **Prostud Global** the due and punctual payment by the Customer all its liabilities, obligations and agreements (whether contingent, prospective or actual) to **Prostud Global** pursuant to or in connection with this Application for Commercial Credit.

2. GUARANTOR'S OBLIGATIONS AND THEIR ENFORCEMENT

2.1 *Principal obligations*

The Guarantor's obligations are principal obligations and not ancillary or collateral to any other obligation.

2.2 *No requirement to proceed*

Prostud Global is not required to proceed against the Customer, or exhaust any remedies it may have against the Customer, or enforce any security it may hold with respect to the Customer's obligations; but is entitled to demand and receive payment from the Guarantor when any payment is due under this guarantee.

2.3 *Obligations absolute and unconditional*

The Guarantor's obligations are absolute and unconditional. The liability of the Guarantor under this guarantee extends to, and will not be abrogated, prejudiced, affected or discharged (either in whole or in part) by any one or more of the following:

- (a) the release, amendment, variation, replacement or discharge (either in whole or in part) of any agreement to release, amend, vary, replace or discharge (either in whole or in part) the Customer's obligations, whether or not these matters are formalised in writing and whether or not the Guarantor is aware of or consents to these matters;
- (b) the granting of time, credit or any other indulgence or concession to the Customer, the Guarantor or any other person by Prostud Global with or without the knowledge or consent of the Guarantor;
- (c) any compounding, compromise, release, discharge, abandonment, assignment, transfer, waiver, exchange, relinquishment, variation or

renewal of the Customer's obligations or other arrangements now or from time to time in force between the Customer and Prostud Global or any other persons, with or without the knowledge or consent of the Guarantor;

- (d) any judgment or rights which Prostud Global may have or exercise against the Customer, the Guarantor or any other person;
- (e) the Customer's obligations or any part thereof or the Guarantor's obligations or any part thereof being or becoming wholly or partially illegal, void, voidable, defective, informal or unenforceable, whether by reason of any statute (including, without limitation, any statute of limitation) or for any other reason whatsoever by which the liability of the Customer or the liability of the Guarantor would, but for this paragraph, have been discharged or otherwise adversely affected;
- (f) any other person becoming surety for the Customer's obligations or part of them;
- (g) any other person who intended to be bound as a surety in respect of the Customer's obligations not being bound as a surety;
- (h) where the Guarantor comprises more than one person, any of these persons being released or ceasing to be bound by this guarantee and indemnity;
- (i) the delay or failure by Prostud Global to enforce this guarantee or the giving of any release or waiver by Prostud Global under this guarantee or the making of any arrangement or compromise by Prostud Global with the Guarantor;
- (j) Prostud Global becoming a party to, or becoming bound by, any compromise, assignment of property, scheme of arrangement, compromise of debts or scheme of reconstruction by or relating to the Customer, or the Guarantor, or the acceptance by Prostud Global of any dividend, or sum of money under it;
- (k) the winding up or bankruptcy of the Customer, the bankruptcy of the Guarantor or any other person or any of them;
- (l) the liability of the Guarantor ceasing for any cause whatsoever, including, without limitation, the guarantor being or becoming incompetent to give this guarantee;
- (m) any security now or in the future being held by Prostud Global for the Customer's obligations, or any security being granted by the Guarantor or the Customer to any other person, or any negotiable or other instrument issued by the Customer being still in circulation, or outstanding, or being or becoming void, voidable, unenforceable or defective, either in whole or in part;
- (n) **Prostud Global** failing or neglecting to recover by the realisation of any security or otherwise any moneys owing or to become owing to **Prostud Global** by the Customer, or any laches, or mistake on the part of **Prostud Global**;
- (o) Prostud Global's action, omission or neglect taken or suffered in relation to any bills of exchange or any person having any rights, or obligations, in relation to them;

SIGN
HERE

- (p) if the Guarantor is a trustee, any breach of trust by the Guarantor, any amendment or variation of the terms of any trust deed, declaration of trust or settlement pursuant to which the Guarantor is a trustee, or the determination of the trust;
- (q) if the Guarantor or the Customer is an individual, the death, lunacy or incapacity of either of them;
- (r) if the Customer or the Guarantor is a member of any partnership or firm, any change in the membership of such partnership or firm;
- (s) the fact that any security may be entered into after the execution of this guarantee;
- (t) the fact that the Customer may enter into transactions with, or incur obligations to, Prostud Global without the knowledge, or consent of, or notice to the Guarantor;
- (u) the fact that one or more of the persons named in this guarantee as a guarantor may not execute or may not be bound by this guarantee, or Prostud Global may not execute or may subsequently execute this guarantee; and
- (v) any other fact, circumstance or thing whatever which, but for this provision, could or might operate to abrogate, prejudice, affect or discharge (either in whole or in part) this guarantee.

2.4 **Additional security**

This guarantee is in addition to, and not in substitution for, any other security or right which **Prostud Global** now has, or may afterwards take, in respect of the Customer's obligations, or any part of them. This guarantee may be enforced in the absolute discretion of **Prostud Global** against the Guarantor without first having recourse to any such security or right, and without taking any steps or proceedings against the Customer, or any other surety, and notwithstanding that any other security may be, in whole or part, unenforceable by reason of any rule of law or equity.

2.5 **No obligation to marshal**

Prostud Global shall be under no obligation to marshal in favour of the Guarantor any security held by **Prostud Global** or any funds or assets that **Prostud Global** may be entitled to receive or have a claim upon.

2.6 **No obligation to notify default**

Prostud Global is under no obligation to give notice to the Guarantor of any default by the Customer or to include in any demand made under this guarantee particulars of the default of the Customer resulting in the demand.

2.7 **Payments in gross**

All benefits, compositions and payments received by **Prostud Global** from, or on account of the Customer or the Guarantor, including; any dividends upon the winding up or bankruptcy of the Customer or the Guarantor, or from any other person, or from the realisation or enforcement of any security, guarantee or indemnity capable of being applied by **Prostud Global**, will be applied as payments in gross.

2.8 **Release of security**

Prostud Global may release or otherwise deal (either in whole or in part) with any and all security now or in the future held by **Prostud Global** for the Customer's obligations and the Guarantor's obligations without releasing or affecting the liability of the Guarantor under this guarantee. The Guarantor shall not hold **Prostud Global** responsible or liable for any loss, damage or expense suffered by the Guarantor as result (either direct or indirect) of that release or dealing, including, without limitation, any prejudice to or loss of the Guarantor's rights of subrogation.

2.9 **Payments avoided or recouped**

If at any time the whole or any part of any payment or satisfaction of the whole or any part of the Customer's obligations is avoided by the operation of any law, or must be repaid or restored by **Prostud Global** or other recipient of that payment, or beneficiary of that satisfaction, to the Customer by reason of preference or for any other reason whatsoever, this guarantee will continue to be effective or will be reinstated in the event of payment of the sums owing so that payment or satisfaction is deemed not to have discharged the Customer's obligations, or the Guarantor's obligations or part of them, as if that payment or satisfaction had not been made, as the case may be.

2.10 **Retention of security**

If the Guarantor provides any security in support of this guarantee, **Prostud Global** may retain that security until seven months after the Customer's obligations and the Guarantor's obligations have both been fully satisfied.

2.11 **No merger**

The rights of **Prostud Global** and the obligations of the Guarantor under this guarantee will not merge in any bill of exchange whether or not the Guarantor is a party to any such bill.

2.12 **Collateral security**

This guarantee will not prejudicially affect or be prejudicially affected by any other security or guarantee held now or in the future by **Prostud Global** in respect of the Customer's obligations, but the other security or guarantee shall be deemed to be collateral to this guarantee.

2.13 **Continuing guarantee and indemnity**

This guarantee shall not be considered wholly or partially discharged by the payment at any time hereafter of any monies and for so long as monies remain payable by the Customer to **Prostud Global** in respect of the goods or services supplied to the Customer, i.e.,

2.13.1 This guarantee shall be a continuing guarantee to **Prostud Global** for all debts whatsoever and whenever contracted with the Customer and remain in full force and effect.

2.13.2 This guarantee shall apply to the present and any future balance of monies.

An electronic signature will be accepted in place of the traditional signature and such signature will confirm the execution of this DEED. **THUS, THE DEED WILL BE CONSIDERED AS HAVING BEEN EXECUTED AS A DEED, SIGNED SEALED AND DELIVERED** (as at the date of the electronic signature).



Signature.....

Please print all pages, then have **ALL DIRECTORS SIGN** the deed on the last page (this page) and (for fast processing) upload electronic copy of all the pages. **PLEASE ENSURE THIS ORIGINAL DOCUMENT IS SENT VIA MAIL TO OUR MAIN OFFICE THIS IS A REQUIREMENT TO FINALISE YOUR CREDIT APPLICATION. (CALL +61 3 9790 6262 for updated head office address, or your sales manager).**

You MUST send the physical original document to the office of Prostud Global Pty Ltd.

Dated this [.....] day of [.....] 20 [.....]

EXECUTED AS A DEED

SIGNED SEALED AND DELIVERED

1) Guarantor [.....]
Name [.....]
Address [.....]
[.....]
Telephone [.....]
Email [.....]

Witness Signature [.....]
Name [.....]
Address [.....]
[.....]

**SIGN
HERE**

SIGNED SEALED AND DELIVERED

2) Guarantor [.....]
Name [.....]
Address [.....]
[.....]
Telephone [.....]
Email [.....]

Witness Signature [.....]
Name [.....]
Address [.....]
[.....]

**SIGN
HERE**

SIGNED SEALED AND DELIVERED

3) Guarantor [.....]
Name [.....]
Address [.....]
[.....]
Telephone [.....]
Email [.....]

Witness Signature [.....]
Name [.....]
Address [.....]
[.....]

**SIGN
HERE**

SIGNED SEALED AND DELIVERED

4) Guarantor [.....]
Name [.....]
Address [.....]
[.....]
Telephone [.....]
Email [.....]

Witness Signature [.....]
Name [.....]
Address [.....]
[.....]

**SIGN
HERE**