



Credit Application

Business details

Full trading name ("Applicant")

Is this trading name a registered business name? Yes No

Registered company name

ACN/ARBN ABN

Business address

State Post code

Business premises Owned Leased Mortgaged
 Rented

Nature of business Date business established

Business structure Sole trader Private company Public company
 Trust Partnership Co-operative
 Incorporated association Government Authority

Paid up capital of company (if applicable) \$ No. Of Employees

Bank Branch BSB No. Account No.

Contact details

Postal address (if different to above)

State Post code

Telephone Fax Email

Contact persons Accounts Telephone
 Purchasing Telephone

Estimated amount of monthly purchase required (If less than \$5,000.00 -14 Day trading terms apply) \$

Owners' / Directors details

Name Name

Private address Private address

Phone Phone

Date of birth Date of Birth

Drivers licence no Drivers licence no

Insolvency

Have any of the directors or proprietors been bankrupt or associated with an insolvent company? Yes No

If yes, Name Year of bankruptcy/insolvency

Trading references (please provide the names, phone and fax numbers of three current references)

Name Phone Fax

1.

2.

3.



Credit Application

Corporate trustee (if applicable)

Where the applicant makes this application as a trustee, it warrants and declares that it has the power and authority to make and execute this application and that all rights of indemnity which it now has or may have in the future or may otherwise have against the property of the trust of which it is a trustee or beneficiary or both, have not been modified or excluded as a result of any act, matter or document made or executed by it or as a result of any breach of fiduciary duty or in any other way. It warrants and declares further that it is has not released and shall not release in the future and shall not cause or permit to be released, lost or diminished in any manner whatsoever, and such rights of indemnity.

Name of trust Date of trust deed

Name of trustee Name of settlor

Address of trustee Beneficiaries of trust

Declaration (must be signed)

The applicant applies to birk developments pty ltd (abn 26 120 670 804) for credit. The applicant acknowledges receipt of and accepts the present standard terms and conditions and acknowledges that the terms and conditions may be changed by birk developments from time to time.

I/we warrant that i am/we are authorised to sign this application on behalf of the applicant.

Signature Signature

Name (block letters) Name (block letters)

Position Position

Date Date

Personal guarantee and indemnity (must be signed)

I/we note that the trading terms and conditions have been provided to us by birk developments and that i/we have read and understood them. In consideration of birk developments supplying the sale of goods on credit to the applicant:

I/we (and if more than one, jointly and severally) agree that if the applicant at any time fails to pay any money due to birk developments or fails to perform or observe any term or condition of credit or sale to be performed by the applicant. I/we will forthwith pay to birk developments all money due and payable by the applicant (or any subsequent owner of the business name of the applicant) to Birk developments. No demand by birk developments for payment shall be necessary.

I/we further agree to indemnify birk developments against any loss of money due to birk developments by the applicant under or relating to any sale or by credit granted by birk developments to the applicant (or any subsequent owner of the business name of the applicant) including expenses and legal costs associated with the collection of outstanding monies and including any loss suffered by birk developments as a result of the applicant's failure to perform or observe any term or condition of credit or sale.

I/we (and if more than one, jointly and severally) agree that this guarantee and indemnity is a continuing guarantee and indemnity and will not be invalidated, released or discharged by any event which or might so invalidate, release or discharge the guarantee and indemnity, including (but not limited to) the giving time, the variation of the terms and conditions of credit or sale, the alteration of the composition of the applicant or any co-guarantor. I/we understand this guarantee and indemnity binds me/us personally.

Signature Signature

Name (block letters) Name (block letters)

Witness signature Witness signature

Witness name (block letters) Witness name (block letters)

Date Date



Terms and Conditions

To the extent permitted by law each of the following terms and conditions shall form part of this quotation and part of any contract arising here from unless specific provision to the contrary is made in the body of the quotation.

Quotation and Acceptance

- 1.1 Quotations are valid for 30 days only and, on the expiration of 30 days from the date thereof, will automatically lapse.
- 1.2 Quotations are subject to verification by the principal and until so verified shall be binding.
- 1.3 All prices quoted will remain firm for a period of 60 days from the date of acceptance of the quotation and there after may, in the absolute discretion of the Principal, be varied.

Delivery Time

- 2.1 Any delivery date or completion date specified in the quotation is a bona fide estimate only and the Principal does not accept liability for delays in delivery arising from any cause whatsoever. Failure by the Principal to meet delivery date shall not enable the customer to terminate this contract. Date of delivery shall be deemed to be the date of the statement/invoice, which accompanies the goods dispatched from the seller's premises.

Payment

- 3.1 Unless otherwise agreed expressly in writing, payment shall be by a nominated deposit, on the placement of order, with the balance on the due date, as here in after defined.
- 3.2 A 14 day account (if monthly purchase is less than \$5,000.00 per month) or 30 day account (if monthly purchase is greater than \$5,001.00 per month) is only available to wholesale customers from the date of invoice unless other arrangements are in place with Birk. For all other customers, Birk requires an initial deposit and COD on completion.
- 3.3 The buyer agrees to pay to the Principal interest at the rate of 15% per month calculated on a monthly basis on amounts not paid after the due date; such interest charge shall commence on the due date and continue until the amount is paid.
- 3.4 An initial deposit of 40% from the total amount payable is required before job commencement, balance payable on completion.
- 3.5 The Customer is liable for all expenses (including contingent expenses such as debt collection commission) and legal costs (on a solicitor/own client basis) incurred by the Company for enforcement of obligations and recovery of monies due from the Customer to the Company.

Return and Procedure Policy

- 4.1 Should the Applicant wish to return goods to Birk Developments Pty Ltd they must obtain a Return Authorisation Number prior to the return of any goods;
- 4.2 Birk Developments Pty Ltd offers no warranty as to the quality of the product supplied to the Applicant save and except that provided to Birk Developments by the original manufacturer.
- 4.3 In the event of the Applicant being supplied goods which have a genuine manufacturing fault, Birk Developments Pty Ltd will credit the value of those goods to the amount outstanding by the Applicant or for future orders, provided that the Applicant shall:
 - (a) return the goods with a completed return Authorisation Request. The Applicant shall satisfy all cartage costs on goods returned and shall ensure that the goods are returned in good condition.
- 4.4 For a Credit to be issued to the Applicant for goods incorrectly supplied by Birk Developments Pty Ltd, notification must be given to Birk Developments Pty Ltd by the Applicant within fourteen (14) days of delivery of the goods to the Applicant.
- 4.5 Goods Delivered in accordance with the terms of the original sales contract and fulfilling the conditions of the order as written will not be accepted for return.
- 4.6 The Principal will not accept for returns, goods that have been used, altered or defaced.
- 4.7 Birk accepts no responsibility for changes in length, shrinkage or dropping of materials or variations in shade. Any alterations will be at the customers' expense.



Terms and Conditions

Property Rights

- 5.1 The risk in the products purchased shall unless otherwise agreed in writing pass to the customer on delivery to the customer's agent or to a carrier commissioned by the customer.
- 5.2 Legal and beneficial title to the goods shall not pass from Birk Developments Pty Ltd to the applicant until such time as the goods purchased by the Applicant from Birk Developments have been paid for in full and there are no other moneys outstanding by the Applicant to Birk Development Pty Ltd on any other accounts whatsoever.
- 5.3 Until payment in full for the goods purchased by the Applicant from Birk Development Pty Ltd has been made, the Applicant shall hold the goods solely as bailee of Birk Developments and shall store the goods separately and mark the goods in such a manner as to show that the goods are clearly identifiable as the property of Birk Developments Pty Ltd. Should the Applicant have failed to discharge the obligations imposed by this Clause, the presumption shall be that any goods in the possession of the Applicants corresponding with items invoiced by Birk Developments Pty Ltd to the Applicant are the property of Birk Developments Pty Ltd and the production of the invoice of Birk Developments Pty Ltd shall be accepted as prima facie evidence of title of goods.
- 5.4 The Applicant hereby grants a licence to Birk Developments Pty Ltd, its servant or agents to enter any premises of the Applicant upon which the goods are situated during normal business hours to inspect the goods and retake possession of the same should the purchase price of the goods not be paid in full by the due date and the Applicant acknowledges that such access shall be full, free and unhindered and shall not constitute a trespass by the Applicant.
- 5.5 The Principal warrants that all products supplied shall be of merchantable quality and provided that the materials supplied have been installed by a qualified electrical fitter or trades person and have been properly used, installed and operated in accordance with the operating instructions and maintained by the customer from the installation date, the Principal hereby warrants to the customer that, for a period of three years, it will remedy at its own cost any defect in the product. Save that the Principal will not be responsible for any damage to person or property arising from the installation of the products or from any subsequent rectification work or improper installation by a recognised installer.
- 5.6 This warranty will not apply in the case of defects or faults arising from neglect, misuse, alteration or abuse by the customer or any other persons or from reasonable wear and tear, or from accidental damage, fire or any act of god.
- 5.7 Prices appearing hereon are net and exclusive of all taxes, State and Federal, except where expressly included.
- 5.8 Force Majeure Deliveries may be totally or partially suspended by the Principal during any period in which the Principal may be prevented or hindered from delivering by the Principal's normal means of delivering by normal route through any circumstances outside its reasonable control, including but not limited to strike, lockouts, raw material shortages, accidents or breakdowns of plant or machinery.
- 5.9 Future Dealing Not with standing any terms appearing in documentation provided by or on behalf of the customer the terms appearing here in shall be incorporated by implication into all agreements by the Principal to supply the customer with products or services.
- 6.0 Governing Law This agreement shall be construed in accordance with and be governed by the laws in force in the State of Victoria and the parties hereby submit to the jurisdiction of the Courts of that State for the resolution of any disputes under this agreement.

Applicant's Covenants

The Applicant shall not, without the prior written consent of Birk Developments Pty Ltd:

- 7.0 Repackage any goods or reproduce any artwork on the packaging of any goods.
- 7.1 Reproduce any trademark appearing on any goods or the packaging of any goods.
- 7.2 Birk Developments Pty Ltd shall have no liability whatsoever to the Applicant or any other person claiming under or through the Applicant for any consequential loss or damage however suffered or incurred in relation to goods purchased by the Applicant from Birk Developments Pty Ltd including any loss or damage resulting directly or indirectly from any failure, defect or deficiency of whatsoever kind or nature in such goods.



Terms and Conditions

Applicant's Default

8.0 If any payment is not received by Birk Developments Pty Ltd by the due date, i.e. net thirty (30) days from date of invoice, Birk Developments Pty Ltd shall be entitled to:

- (a) Cancel the Applicant's credit limit and require all future orders by the Applicant to be on a COD basis;
- (b) Refuse to supply any others orders until such time as the default is rectified;
- (c) Cancel all back orders;
- (d) Exercise the licence granted by Clause 5.4 to enter the premises of the Applicant and retake possession of the goods supplied to the Applicant.

8.1 If any payment received by Birk Developments Pty Ltd by way of cheque or other negotiable instrument is not honoured upon presentation for payment for any reason, Birk Developments Pty Ltd may then impose upon the Applicant an administration fee of \$30.00 plus goods and services tax upon the Applicant who shall then be deemed to be in default of the performance of this agreement;

8.2 Birk Development Pty Ltd shall be entitled to terminate this agreement upon the following:

- (a) The Applicant being in breach of the terms of this agreement for a period of thirty (30) days;
- (b) The applicant being a person is declared or made bankrupt or enters into any composition or arrangement with his creditors under Part X of The Bankruptcy Act 1966, or being a company is placed in liquidation or provisional liquidation or has a Receiver or Receiver and Manager appointed to any or all of its assets or has an Administrator appointed to it or enters into any Scheme or deed of Company Arrangement with its creditors, or if a mortgagee whether itself or by any agent takes possession of any assets of the Applicant or if execution is levied under any Court.
- (c) If any Guarantor of the Applicant is declared bankrupt or enters into any composition or arrangement with his creditors under Part X of The Bankruptcy Act 1966.

Note

The customer warrants and confirms that the Principal hereby extends and shall only be liable to extend to the customer the benefit of such conditions/representations and warranties in respect of the products and services as are set out in this agreement and as are implied in this agreement in favour of the customer by such of the provisions of the Australian Trade Practices Act 1974 (here in after called 'the Act') and by the provisions of any other applicable law of Australia and of the several States of Australia and that are provided by the Act and by the provisions of any such applicable law to be incapable of exclusion from this deed or restriction or modification by the Principal and save as aforesaid the customer shall have no right or claim against the Principal in respect of the goods or services arising out of this agreement or any representation claim or statement made in relation to the goods or services supplied under this agreement.

The customer hereby expressly acknowledges that in the event that this agreement constitutes a supply of products or services to a consumer as defined in the Act (as amended) nothing contained in this agreement excludes restricts or modifies in relation to this agreement and the products and/or services to be supplied here under any condition warranty right or remedy pursuant to the Act applies to this agreement or is conferred on the customer provided that to the extent that the said Act permits the Principal to limit the liability of the Principal for a breach of a condition or warranty implied by the Act then Principal's liability for such breach including any consequential loss which the customer sustain or incur shall be limited to:

The replacement of the products or the supply of equivalent products or the payment of the costs of replacing the products or acquiring equivalent products:

The repair of the products or the payment of the cost of having the products repaired.

Subject to the foregoing acknowledgment, all conditions and warranties, which would or might otherwise be implied in the agreement, are hereby excluded and negated to the extent permitted by law and the customer acknowledges that the foregoing facts have been brought to the customer's attention.

Customer

Signature

Address

Date.....

Birk ref no.