



**LYNX CORPORATION PTY LTD**

12 BONNAL ROAD  
ERINA NSW 2250  
SYDNEY, AUSTRALIA

**Telephone: (02) 4367 0522**

**ABN 38 000 595 200**

POSTAL ADDRESS:  
12 BONNAL ROAD  
ERINA NSW 2250 AUSTRALIA

**FAX NO: (02) 4365 6077**

## **Procedure for the completion of Lynx account application.**

Enclosed is an application for a Lynx 30 day commercial credit account. As this is a multi purpose form, it has provision for completion by a company, a partnership or a sole trader. Please take a few minutes to familiarise yourself with these instructions before attempting the filling out of the forms, as incomplete or incorrect completion of the forms may result in a delay and/or rejection of the application.

The application comprises four (4) pages, and they are detailed as follows:

### **Page 1 – Applicant Details.**

Please tick one of the three alternatives on the top of the page as relevant to your application. Complete all relevant fields in relation to directors or partners of the business. The trading references supplied by you should reflect current purchasing dollar values relative to this application. The inclusion of your ABN is a mandatory part of this application and cannot be proceed without same. Signatures of applicant(s) are required to be witnessed by an independent person.

### **Page 2 – Privacy Act - Acknowledgement and Consent.**

If you are successful in your application for a credit account, Lynx Corporation will become a credit provider to your business. We need to seek your permission to make enquiries about your credit history with the businesses you provided details of. This form therefore requires signing and dating.

### **Page 3 – Terms and Conditions of Sale.**

These are the terms and conditions under which Lynx Corporation will supply goods to account customers. Please sign and take a photocopy of this page for your own records.

### **Page 4 – Deed of Guarantee and Indemnity.**

This page needs to be completed only if the application for the credit account is made by a proprietary limited company. The form is self explanatory and requires the details and signatures of all directors of the company. The signature(s) also require witnessing by persons independent of this application.



# PRIVACY ACT - ACKNOWLEDGEMENT & CONSENT

LYNX CORPORATION PTY LIMITED AND ITS ASSOCIATED AND SUBSIDIARY COMPANIES ARE THE "CREDIT PROVIDER" REFERRED TO IN THIS DOCUMENT

Under Section 18e(i) (c) of the Privacy Act a Credit Provider (in this case Lynx Corporation Pty. Limited and its associated and subsidiary companies) is allowed to give a credit reporting agency personal information about your Credit Application. The information which may be given to an Agency is covered by Section 18E(1) of the Act Includes:-

- \* Identify particulars (as permitted by the Privacy Commissioner's determination issued under s.183E(3);
- \* The fact that you have applied for credit and the amount;
- \* The fact that the credit provider is a current credit provider to you;
- \* Payments which become overdue more than 60 days, and for which collection action has commenced;
- \* Advice that payments are no longer overdue;
- \* Cheques drawn by you which have been dishonoured more than once;
- \* In specified circumstances, that in the opinion of the credit provider you have committed a serious credit infringement;
- \* That credit provided to you by the credit provider has been paid or otherwise discharged.

## AGREEMENT THAT THE CREDIT PROVIDER MAY SEEK COMMERCIAL CREDIT INFORMATION (SECTION 18L(4), PRIVACY ACT 1988)

If the credit provider considers it relevant to assess my/our application for personal credit, I/we agree to the credit provider obtaining a report about my/our commercial credit worthiness from a business which provides information about the commercial credit worthiness of persons.

## AGREEMENT THAT THE CREDIT PROVIDER MAY SEEK CONSUMER CREDIT INFORMATION (SECTION 18K(1)(b), PRIVACY ACT 1988)

If the credit provider considers it relevant to assessing my/our application for commercial credit, I/we agree to the credit provider obtaining from a credit reporting agency a credit report containing personal credit information about me/us in relation to commercial credit provided by the credit provider.

## GUARANTOR'S AGREEMENT (SECTION 18K(1)(c) PRIVACY ACT 1988)

I/we agree that the credit provider may seek from a credit reporting agency, a credit report containing personal information about me/us to assess whether to accept me/us as a guarantor for credit applied for, or provided to the applicant. I/we agree that if the credit provider approves the applicant's application for credit this agreement remains in force until the credit facility covered by the applicant's application ceases.

## AGREEMENT THAT THE CREDIT PROVIDER MAY USE A CREDIT REPORT ABOUT ME/US FOR COLLECTING OVERDUE PAYMENTS (SECTION 18K(1)(h) PRIVACY ACT 1988)

If the credit provider considers it relevant to collecting overdue payments in respect of commercial credit provided to me/us, I/we agree to the credit provider receiving from a credit reporting agency a credit report containing personal information about me/us in relation to collection overdue payments.

## AGREEMENT TO THE CREDIT PROVIDER SEEKING FROM OR GIVING TO OTHER CREDIT PROVIDERS DETAILS ABOUT MY/OUR CREDIT WORTHINESS (SECTION 18N(1)(b) PRIVACY ACT 1988)

I/we agree that the credit provider may give to and seek from any credit providers named in any application and any credit providers that may be named in a credit report issued by a credit reporting agency information about me/our credit arrangements. I/we understand that this information can include any information about my/our credit worthiness, credit standing, credit history or credit capacity that credit providers are allowed to give or receive from each other under the Privacy Act.

- I/we understand the information may be used for the following purposes:
- \* to assess an application by me/us for credit
  - \* to notify other credit providers of a default by me/us
  - \* to exchange information with other credit providers as to the status of this loan where I am in default with other credit providers
  - \* to assess me/our credit worthiness.

## AGREEMENT TO THE CREDIT PROVIDER DISCLOSING INFORMATION TO PARTIES INVOLVED IN MORTGAGE SECURITISATION ARRANGEMENTS (SECTION 18N(1)(bg), PRIVACY ACT 1988)

I/we agree that the credit provider may disclose information about my/our personal credit worthiness to persons involved in funding mortgage credit for the purposes of enabling those persons so involved to perform tasks necessary in the funding of mortgage credit.

I/we hereby acknowledge the above and consent to the credit provider giving the above details to any credit reporting agency.

Dated This \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

Company or Trading Name \_\_\_\_\_

Credit Applicant \_\_\_\_\_ Guarantor \_\_\_\_\_

Credit Applicant \_\_\_\_\_ Guarantor \_\_\_\_\_

**("LYNX")****TERMS AND CONDITIONS OF SALE**

These are the entire Terms and Conditions of Sales of all products supplied by Lynx Corporation Pty. Limited and its subsidiary and associated companies ("Lynx"). Except as otherwise expressly agreed upon in writing between a duly authorised officer of Lynx and the customer, these Terms and Conditions shall apply notwithstanding any provision to the contrary which may appear on any order form or other document issued by any customer.

**GENERAL**

1. No quotation given by Lynx shall constitute an offer.
2. All orders placed with Lynx shall only be accepted subject to these Terms and Conditions of Sale. Lynx may at any time and from time to time alter these Terms and Conditions of sale and such altered Term and conditions of sale shall apply after notification by Lynx to the customer.
3. Lynx shall be under no obligation to recognise any other party as a customer other than the Applicant referred to in any Account Application notwithstanding the fact that a party other than the Applicant has, in fact, been ordering, paying for and accepting delivery of products.
4. If a customer cancels or alters any order or part order for special products or standard products with special material, paints or finishes at any time after Lynx has received the order then Lynx reserves the right to charge to the customer the costs of any special products, materials, paints or cost of any labour and tooling expended to the date of such cancellation or alteration.

**PRICES**

5. Prices do not include any applicable Sales Tax or other applicable tax or duty payable and all such taxes or duties shall be paid by the customer as an additional charge.
6. All prices shall be as referred to in Lynx's then current price lists and/or arrangements current at the time of delivery and prices shall be subject to change without notice prior to delivery of the products. Prices may change as a result of changes since the date of quotation in costs of materials, labour, freight, insurance, tariffs, duties, taxes and manufacturing costs generally.

**TERMS OF PAYMENT**

7. Unless otherwise stated on the invoice all prices are strictly nett. The granting of credit to a customer shall be at the absolute discretion of Lynx and unless otherwise demanded by Lynx the customer shall make payment within thirty (30) days after the end of the month in which delivery is made.
8. If the customer fails to make payment in accordance with clause 7, Lynx shall be entitled to:-
  - (a) Require the payment of cash upon delivery of any further product;
  - (b) Charge default interest at the rate of one and half per centum (1.5%) per month on a cumulative basis on all overdue amounts (including late payment charges and amounts other than the price) calculated on a day to day basis on any monies due but unpaid, such interest to be computed from the due date for payment and the parties agree that such default interest is not a penalty but is a true measure to damages incurred by Lynx; payment received from the customer will be credited first against any default interest and all such charges shall be payable on demand;
  - (c) Claim from the customer all costs relating to any action taken by Lynx to recover monies or goods due from the customer including any Mercantile Agents costs and legal costs and disbursements on a solicitor-client basis and such costs shall be deemed to be part of the indebtedness of the customer to Lynx;
  - (d) Cease any further deliveries to the customer and to terminate any agreement in relation to products that have not been delivered; and
  - (e) Disallow any settlement discount as referred to on any invoice and reinvoice at the pre discounted unit price.

**DELIVERY**

9. Any date or time quoted for delivery is an estimate only and Lynx shall endeavour to effect delivery at the time or times requested by the customer but failure to do so shall not confer any right of cancellation or refusal of delivery on the customer or render Lynx liable for any loss or damages directly or indirectly sustained by the customer as a result thereof.
10. The customer shall not be relieved of any obligation to accept or pay for products by reason of any delay in delivery or any strike, lockout, unavailability of raw materials, accidents to machinery, differences with workmen, breakdowns, shortages of supplies or labour, fires, floods, storm or tempest, transport delays, acts of God, restrictions or intervention imposed by any laws, regulations, governments or agencies thereof and any other cause beyond the control of Lynx or any other cause whatsoever.

11. Lynx's obligation to deliver shall be discharged upon delivery to the customer or his agents or to a carrier nominated by the customer or by LYNX. The customer shall unload the products upon delivery **PROVIDED THAT** if the customer is unable or unwilling to accept physical delivery of the products when the products are ready for delivery Lynx shall be entitled to charge a fee for any delay experienced or arrange for the storage of the products at the risk and cost to the customer including all transportation, storage and other consequential costs or to unload the products at the risk and cost of the customer.

12. Lynx may at its discretion make and invoice partial deliveries and each partial delivery shall be a separate sale pursuant to these Terms and Conditions of Sale.

**INSPECTION**

13. The customer shall examine the products immediately after delivery and Lynx shall not be liable for any misdelivery, shortage, defect or damage and the customer shall be deemed to have accepted the products are of the description quality and quantity ordered unless Lynx receives details of any claim in writing within three (3) working days of the date of delivery of the products.

**RISK AND INSURANCE**

14. The risk in the products shall pass to the customer upon delivery to the customer or his agent or to a carrier nominated by the customer or by Lynx. If the customer fails to accept insurance as arranged by Lynx then the products are wholly at the risk of the customer upon leaving Lynx's possession.

**WARRANTY**

15. Subject to payment in full being made as defined in clause 7 Lynx shall use its best endeavours to pass on to the customer the benefit of any warranties or guarantees it receives in respect of products or parts thereof supplied to the customer which are not of a Lynx's manufacture.

Any warranties or guarantees will be rendered invalid should any products or parts be modified or used in a modified engine or environment or be used for racing or competitive purposes. All products or parts supplied must only be used with suitable compatible components as determined by Lynx in its sole discretion.

**REPRESENTATIONS**

16. Any advice, recommendation, information or representation provided by Lynx as to quality or performance of the products or their suitability for a particular purpose or otherwise in relation to the products is given in good faith but without any liability or responsibility on the part of Lynx. The customer acknowledges that it has not relied upon or been induced by any representation by Lynx not expressly set out in its price list or herein.

**LIMITATIONS OF LIABILITY**

17. These Terms and Conditions of Sale do not exclude, restrict or modify the application of any provisions of any Commonwealth, State or Territorial Law which by

law cannot be excluded, restricted or modified.

**18. (a) Sales to Non-consumers**

i) In the case of products supplied by Lynx to a customer who is not a "consumer" (as defined in the Trade Practices Act 1974 as amended from time to time ("The Act")), if the products do not correspond with the description of them on the invoice or are defective, then provided that the products are preserved intact and made available for inspection by a representative of Lynx and are returned to Lynx in the same order and condition and that in which they were delivered, Lynx shall at its option replace those products or reimburse the customer for the amount of the purchase price paid for them, but any claim in this respect must be made in writing within three (3) working days of the date of delivery of those products.

ii) Should the customer seek an indemnity from Lynx in respect of a claim by a consumer on the customer as a result of a breach of condition or warranty implied by the Act in a contract for the supply of products by the customer to that consumer, sub-paragraph (i) will not apply and in respect of products that are of a kind ordinarily acquired for personal domestic or household use or consumption ("consumer goods"), Lynx's liability is limited to indemnifying the customer in accordance with the Act, limited to a liability to pay to the customer an amount equal to the cost of replacing the products or the cost of obtaining equivalent products or the cost of having the products repaired, whichever is the lesser amount.

**(b) Sale to a Consumer**

In the case of products supplied by Lynx to a customer who is a consumer, to the extent that the products are not consumer products or goods, the liability of Lynx to the customer for breach of any warranty or condition (other than a warranty or condition implied by section 69 of the Act) or for breach of any duty of care shall in all cases be limited, at the option of Lynx to any one or more of the replacement of the products or the supply of equivalent products, the repair of the products, the payment of the cost of replacing the products or acquiring equivalent products or the payment of the cost of having the products repaired.

(c) Except for those conditions and warranties implied by the Act or other sale of products or consumer protection legislation which may not be excluded, the customer agrees that:

- 1) It has not relied on any inducement, representation or statement made by or on behalf of Lynx in purchasing the products and there are no implied conditions or warranties herein and no collateral contracts in connection herewith (except such as may be in writing and signed by a duly authorised representative of Lynx); and
- 2) This clause 18 sets out the entire liability of Lynx in respect of its liability under the Act or otherwise in respect of liabilities to the consumer for a breach of a condition or warranty with respect to the sale of products or goods. In no circumstances will Lynx incur any liability in respect of or arising out of or in connection with any special consequential, direct or indirect loss, damage, harm or injury suffered or incurred by the customer.

**FORCE MAJEURE**

19. Lynx shall not be liable for any failure or delay to supply or deliver products where such failure or delay is wholly or partly due to any cause or circumstance whatsoever outside the reasonable control of Lynx including, but not limited to, war, strikes, lockouts, industrial disputes or unrest, government restrictions or interventions, transport delays, fire, act of God, breakdown of plant, shortage of supplies or labour, storm or tempest, theft, vandalism, riots, civil commotions or accidents of any kind.

**TERMINATION**

20. If the customer fails to comply with

any of these Terms and Conditions or being a natural person or persons commits any act of bankruptcy, or being corporation passes a resolution for winding up or liquidation (other than for the purposes of re-organisation or reconstruction) or enters into any composition or arrangement with creditors or if a receiver or manager is appointed for any property or assets of the customer or becomes liable to be wound up by reason of insolvency or if any petition is presented for its winding up, Lynx may, in addition to exercising all or any of its rights against the customer, suspend any further deliveries and immediately recover possession of any products not paid for in accordance with these Terms and Conditions.

**RETURNS**

21. Other than in respect of Lynx's obligations pursuant to clause 18 hereof, Lynx shall not be liable to accept any returned products but may in its absolute discretion accept the return of products provided that such products shall only be accepted for credit and with the prior written approval of a duly authorised representative of Lynx. Products returned for credit pursuant to this clause may be subject to a handling and administration charge equivalent to twenty five percent (25%) of the invoiced value of the returned products. Return freight and other expenses will be paid for by the customer and no returns of special products will be accepted.

**GOVERNING LAWS**

22. The customer agrees that these Terms and Conditions of Sale shall be construed according to the laws of the State or Territory as Lynx may in its sole discretion determine. Proceedings may be instituted in such State or Territory as Lynx may in its sole discretion determine. Failing such determination the customer consents to any proceeds being instituted and heard by any appropriate Court sitting in the State of New South Wales applying the laws of the State of New South Wales.

**SERVICES OF DOCUMENTS**

23. The customer agrees that service of any notices or Court documents may be effected by forwarding same by pre-paid post or facsimile to the last known address of the customer.

**STATEMENT OF DEBT**

24. A written Statement of Debt duly signed by an authorised employee of Lynx shall be prima facie evidence and proof of the amount owing by the customer at that time.

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APPLICANT

I acknowledge that I have received a copy of these Terms and Conditions of Sale.

**PLEASE RETAIN A COPY**

# DEED OF GUARANTEE AND INDEMNITY

In consideration of **LYNX CORPORATION PTY LIMITED** and / or its Subsidiaries or  
Associated companies ("The Company") for continuing to provide goods, services and/or materials to:

ABN 38 000 595 200

**DEBTOR**

(REGISTERED COMPANY NAME AND A.C.N., REGISTERED BUSINESS NAME, NAMES OF EACH PARTNERSHIP OR NAME OF SOLE TRADER)

**OF (Address)**

at the request of  
**GUARANTOR**

FULL NAME

OCCUPATION

ADDRESS

**GUARANTOR**

FULL NAME

OCCUPATION

ADDRESS

the Guarantor enters this Deed and where the Guarantor consists of more than one person jointly and severally agrees with the Company as follows:-

1. To guarantee to the Company the payment by the Debtor for goods, services and/or materials as may have been supplied or may in future be supplied from time to time at the Debtor's request and to be answerable and responsible to the Company for the payment by the Debtor of all monies which are now payable or may in future become payable by the Debtor to the Company.

2. This guarantee is given for valuable consideration and is a continuing guarantee to the Company for the whole of the Debtor's indebtedness or liability to it in respect of goods, services and/or materials supplied to the Debtor on any other account howsoever or whatsoever arising.

3. This guarantee is binding on the Guarantor's personal representatives and shall be for the benefit of the Company its successors and assigns.

4. The Company may at any time or times at its discretion and without giving any notice whatsoever to the Guarantor refuse to provide further goods services and/or materials to the Debtor.

5. Where the Guarantor consists of more than one person this guarantee is enforceable against all persons signing as guarantor jointly and each of the persons severally and regardless of the fact that this Deed of Guarantee and Indemnity is expressed to be signed and given by more than one person the Deed shall be a valid and effectual guarantee and Indemnity binding against each person or persons immediately on their signing this Deed and shall continue to be binding as against each person

or persons even if any person proposed or contemplated to sign does not in fact sign this deed

6. The Company shall be at liberty at any time to release or discharge the Guarantor or any of the persons included as Guarantor from the obligations of this security, give time payment, accept any composition from or make any other arrangements with any of these persons without releasing or discharging the other or others or otherwise prejudicing or affecting the rights and remedies of the Company against the other or others of the persons included as Guarantor provided that any part payment or indulgence granted by the Company in writing shall constitute discharge of liability to the extent of such part payment or indulgence

7. a) The Guarantor hereby indemnifies the Company against any and all losses and expenses including legal costs on a solicitor/client basis howsoever and whatsoever directly or indirectly arising from any default whatever on the part of the Debtor under its contract with the Company for goods, services and / or materials or otherwise, the intent being that the Guarantor is primarily liable for the Debtors indebtedness to the Company

b) For the purpose of securing payment to the Company the Guarantor hereby charges all of its or his or her real and personal property (including all property acquired after the date of this Deed) whatsoever and where-soever situated including the land (if any) referred to in this Deed and all of its or his or hers estate and interest therein, in favour of the Company, with the payment of all sums of

money, whether present, future or contingent, to which the Guarantor may become liable to pay to the Company and covenants to deliver to the Company within seven (7) days of written demand a memorandum of mortgage in registrable form payable on demand and incorporating the covenants contained in memorandum No. Q860000 registered at the Land Titles Office in Sydney and authorises and consents to the Company taking all actions necessary to give effect to this security including the lodgment of a Caveat upon the Title of the Guarantor's Real Property. The Guarantor hereby irrevocably appoints the Company and any person nominated by the Company severally the attorney of the Guarantor with power to execute, sign, seal and deliver (which delivery may be subject to such terms and conditions as the attorney thinks fit) any such mortgage or other document to give effect to this security.

c) If the charge created by Clause 7(b) is or becomes void or unenforceable, it may be severed from this Deed without any effect on its validity and the Guarantor shall not be exonerated in whole or in part, nor shall the Company's rights, remedies or recourse against the Guarantor be in any way prejudiced or adversely affected by such severance

8. A Certificate of Debt signed by a duly authorised Officer of the Company shall be prima facie evidence and proof of the moneys owing by the Debtor to the Company at that time.

9. The Guarantor acknowledges that the Company has afforded it full and unrestricted

opportunity of seeking independent legal advice on the Guarantor's obligations under this Deed prior to the signing of this Deed of Guarantee and Indemnity.

10. The Guarantor acknowledges that the Guarantor has made its, his or her own enquiries of the Debtor regarding the Debtor's past and prospective dealings with the Company and is satisfied as to the extent of its, his or her obligations arising from this Deed of Guarantee and Indemnity. The Guarantor further acknowledges that the Company is under no obligation to notify it, him or her of any changes to its trading terms or dealings with the Debtor.

11. In interpreting this Deed words incorporating the singular number or the plural number shall include the plural number and single number respectively and where more than one person is included as Guarantor all references to one Guarantor shall be construed as including the plural.

12. The Guarantor agrees that this Deed shall be construed according to the laws of the State or Territory as the Company in its sole discretion determines. Proceedings may be instituted in such State or Territory as the Company may in its sole discretion determine. Failing such determination the Guarantor consents to any proceedings being instituted and heard by any appropriate Court sitting in the State of New South Wales applying the laws of the State of New South Wales.

IN WITNESS whereof the parties have set hands and seals

on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

Signed sealed and delivered by the said Guarantor

Signed sealed and delivered by the said Guarantor

X \_\_\_\_\_

X \_\_\_\_\_

PRINT NAME

PRINT NAME

In the presence of

In the presence of

SIGNATURE OF WITNESS

SIGNATURE OF WITNESS

NAME (PLEASE PRINT)

NAME (PLEASE PRINT)

ADDRESS

ADDRESS

POST CODE

POST CODE

OCCUPATION OF WITNESS

OCCUPATION OF WITNESS