

# APPLICATION FOR CREDIT ACCOUNT AND AGREEMENT

**Garden Edging Solutions – ABN: 58 965 309 329** (the Company) and (the Client) as named below understand this is a contract and the document comprises the credit application and the Company's terms and conditions attached to it. This application may include a guarantee/s which must be completed in full in order to process this application. If you sign the documents you will be bound by its terms. You should read the terms of the documents carefully and seek legal advice about its terms.

## I/We hereby apply for a Credit Account and submit the following information

|   |              |                    |                 |
|---|--------------|--------------------|-----------------|
| Business Name   | _____        |                    |                 |
| Trading Address   | _____        |                    |                 |
|   | Suburb _____ |                    | Post Code _____ |
| Postal Address  | _____        |                    |                 |
|   | Suburb _____ |                    | Post Code _____ |
| Business Phone  | _____        | Business Fax _____ | Mobile _____    |
| Email Address   | _____        |                    |                 |
| Nature of Business (e.g. Distributor, Accountant, Mechanic) | _____        |                    |                 |
| Approximate number of employee's                            | _____        |                    |                 |
| Date you commenced Business under this trading name         | _____        | ABN                | _____           |
| Bank Name   | _____        | Branch             | _____           |

## BUSINESS STRUCTURE

### SOLE TRADER / PARTNERSHIP (Business is not incorporated and does not have an ACN)

Registered Trading Name \_\_\_\_\_

ABN \_\_\_\_\_ State of registration \_\_\_\_\_

Personal details of all registered proprietors of the trading name: (if more than 3 please attach details of extra proprietors)

1 Full Name \_\_\_\_\_ Home Phone: \_\_\_\_\_ D.O.B \_\_\_\_\_

Residential Address \_\_\_\_\_ Post Code \_\_\_\_\_

2 Full Name \_\_\_\_\_ Home Phone: \_\_\_\_\_ D.O.B \_\_\_\_\_

Residential Address \_\_\_\_\_ Post Code \_\_\_\_\_

3 Full Name \_\_\_\_\_ Home Phone: \_\_\_\_\_ D.O.B \_\_\_\_\_

Residential Address \_\_\_\_\_ Post Code \_\_\_\_\_

### COMPANY / INCORPORATED ASSOCIATION

Type:  Pty Ltd (Proprietary Limited)  Ltd (Limited – Public Company)  Incorporated Association \_\_\_\_\_

ACN \_\_\_\_\_ (must be 9 digits)

Date of Incorporation \_\_\_\_\_ State of Incorporation \_\_\_\_\_

*Note: If a personal / director guarantee is required, these should be included with this form and must be signed by all directors of the company*

### TRUST

Registered Trust Name \_\_\_\_\_

Trust Type \_\_\_\_\_

Trustee \_\_\_\_\_

Suburb \_\_\_\_\_ Post Code \_\_\_\_\_

## CREDIT DETAILS

Estimated amount of credit per month \$ \_\_\_\_\_ **ALL accounts are strictly 30 days from date of Invoice**

Persons to contact regarding payment of the account:

1. Name \_\_\_\_\_ Position \_\_\_\_\_ Phone \_\_\_\_\_
2. Name \_\_\_\_\_ Position \_\_\_\_\_ Phone \_\_\_\_\_

## TRADE REFERENCES

Please list three trade references with which you have a credit account with. By listing a reference you authorise us to contact them to discuss your trading history and to verify your details.

- |   |                       |                           |
|---|-----------------------|---------------------------|
| 1 | Business Name _____   | Date account opened _____ |
|   | Contact Name _____    | Phone: _____ Fax _____    |
|   | Trading Address _____ | Post Code _____           |
| 2 | Business Name _____   | Date account opened _____ |
|   | Contact Name _____    | Phone: _____ Fax _____    |
|   | Trading Address _____ | Post Code _____           |
| 3 | Business Name _____   | Date account opened _____ |
|   | Contact Name _____    | Phone: _____ Fax _____    |
|   | Trading Address _____ | Post Code _____           |

**DECLARATION BY/FOR AND ON BEHALF OF THE APPLICANT/S / CLIENT** (Please read carefully before signing)

1. I/We declare and warrant that the applicant/s are neither bankrupt nor insolvent and have not committed any act of bankruptcy nor traded whilst insolvent within the previous 3 years.
2. I/We authorise the Company to conduct such credit and financial checks on the Client (and any guarantors) as deemed necessary at any time, and consent to such checks for the purposes of the Privacy Act 1988 (Cth), and consent to disclosure of such information to a credit reporting or recovery agents.
3. I/We acknowledge and agree to the *Terms and Conditions* that accompany this Application for Credit and agree to be bound by the *Terms and Conditions* upon signing the document.
4. I/We acknowledge that the Client and each of the Guarantors have received a complete and legible copy of this Agreement and Terms and Conditions before signing it.
5. I acknowledge and warrant that I am duly authorised to sign and make this application.

**Signature of Applicant # 1**

I witnessed Applicant # 1 sign this document on the date indicated:

.....  
Signature Date

.....  
Signature of Witness Date

.....  
Name (please print)

.....  
Name of Witness (please print)

**Signature of Applicant # 2**

I witnessed Applicant # 2 sign this document on the date indicated:

.....  
Signature Date

.....  
Signature of Witness Date

.....  
Name (please print)

.....  
Name of Witness (please print)

**Signature of Applicant # 3**

I witnessed Applicant # 3 sign this document on the date indicated:

.....  
Signature Date

.....  
Signature of Witness Date

.....  
Name (please print)

.....  
Name of Witness (please print)

# TERMS & CONDITIONS

## 1. Interpretation

1.1 In these terms and conditions:

- (a) "The Company" means the entity stated in the Application for Credit and any related body corporate as defined in the *Corporations Act 2001 (Cth)* and its successors and assigns.
- (b) "Client" means the entity stated in the Application for Credit, its successors and assigns and any other person offering to contract with the Company on these terms and conditions or, where such person is acting in the course of employment, such persons as employer.

## 2. Disclosure to Company's Suppliers

2.1 The Client consents to disclosure of information about the Client and this application, to the company's suppliers from which the Company obtains supply of products, from time to time at its sole discretion.

## 3. Risk

3.1 Should the Company elect to post any goods or organize delivery of goods, the Client's risk of loss or damage to such good passes to the Client on the date and at the time that the goods were ordered, and it is the Client's responsibility to ensure these goods are insured and covered for their time in transit.

3.2 The Company will not be responsible for non-delivery or delay in delivery of any goods where such non-delivery or delay occurs, the Company may deliver the goods not delivered or delayed at any subsequent time and the Client must accept and pay for them.

## 4. Title of Property

4.1 In relation to goods supplied to the Client, ownership and property in the goods vests absolutely with the Company and does not pass to the Client UNTIL the Client:

- (a) Pays for the goods in full; and
- (b) Pays in full all other monies owing or unpaid by the Client to the Company including monies in respect of goods previously or subsequently supplied to the Client by the Company.

4.2 In relation to goods supplied to the Client for which payment in full has not been received:

- (a) The relationship between the Client and the Company shall be fiduciary;
- (b) The Client will hold those goods as bailee for the Company;
- (c) Where the Client sells those goods, the Client does so as fiduciary agent of the Company;
- (d) When new goods or objects are formed with the Company's goods into other products or the goods are affixed to other objects, the Company will be given full ownership of such new goods or objects;
- (e) Where the goods are disposed of, the monies resulting from the disposal and all other proceeds received in respect of the goods, including insurance proceeds will be kept separately in trust for the Company;
- (f) Where the goods are disposed of, the Client may only dispose of the goods in the ordinary course of its business on commercially reasonable terms; and
- (g) The Client undertakes that until it delivers the goods to a third party, it will store the goods on its premises separately from its own goods, or those of any other person, and in a manner which makes the goods readily identifiable as the Company's goods.

4.3 The Company shall be entitled to register a security interest in all goods supplied to the Client by the Company, on the Personal Property Security Register (PPSR).

## 5. Transactions contemplated by this Agreement

5.1 The Company's tender of delivery of goods and services under this Agreement is a condition of the Client's duty to accept the goods or services provided and, unless otherwise agreed, the Client's duty to pay for them.

## 6. Disputes

6.1 If the Client disputes any goods sold or services supplied by the Company are faulty or defective or disputes the Invoices the Company has issued, the Client must notify their reasons in writing to the Company within 14 days of the Invoice date, failing which the Client loses any right to dispute the quality of the goods, services or quantum of.

## 7. Whole Agreement

7.1 These terms and conditions together with the Application for credit agreement embody the whole agreement between the parties and, subject to the express terms contained in any written acceptance thereof, all previous dealings, representations and arrangements are hereby excluded and cancelled.

## 8. Payment

8.1 The Client agrees to pay all amounts due in clear funds within the Company's agreed timeframe but no later than 30 days from date of invoice. The Client agrees that if it fails to pay in accordance with this clause, the Company may:

- (a) Charge a late payment fee of 5% on all amounts paid after the due date;

- (b) Charge interest on debts at 20% per annum from time to time;
- (c) Charge a dishonor handling fee in the amount of \$95.00;
- (d) Recover all collections costs and expenses incurred in collecting overdue accounts on an indemnity basis;
- (e) Withhold supply; AND
- (f) Sue for the money owing on the goods or services provided.

8.2 In the event where this agreement has been entered into by more than one party each party shall be jointly and severally liable for any amounts overdue.

## **9. Default**

9.1 If the Client:

- (a) Fails to pay for any goods or services on the due date; or
- (b) Otherwise breached this agreement and failed to rectify such breach within seven days notice; or
- (c) Cancel delivery of goods or services; or
- (d) Commits an act of bankruptcy or allows a trustee in bankruptcy or receiver and manager to be appointed to the Client or any of its property; or
- (e) Allow a judgment or order to be enforced or become enforceable against the Client's property; or
- (f) Permits proceedings to be commenced to wind the Client up or controller, receiver, administrator, liquidator or similar officers appointed to the Client in respect of any part of its property;

then the Company may enter upon the Client's premises (doing all that is necessary to gain access) where goods supplied under this contract are situated at any time and re-take possession of any or all of the goods the Company has supplied to the Client and:

- (a) Resell the goods concerned;
- (b) Terminate the agreement; and
- (c) Sue for any monies owing.

9.2 The Client will be in default if the Client does not pay any monies payable when called upon so to do the Client and the Guarantor jointly and severally acknowledge and agree that the Company is authorized to contact a credit reporting agency throughout the term of the Agreement to obtain a report about the creditworthiness of either the Client or the Guarantor or both.

9.3 The Client and the Guarantor jointly and severally authorize the Company to engage in the exchange of information with a credit reporting agency or with other such parties as are necessary to give effect to the contract and to the ongoing relationship between the parties hereto.

9.4 The Company reserves the right to report a Client's delinquent account to a credit reporting agency should payment remain outstanding for more than 60 days. In addition the Company may refer the outstanding account for debt collection or issue legal proceedings to recover any outstanding invoices. Should an account be referred for debt collection the Client acknowledges and agrees to pay debt collection charges to be calculated at not less than 20% plus GST and will be incurred on the day the Company refers the matter to their nominated debt collection agency. The client shall also be liable for interest and all legal recovery costs associated with such action on a solicitor and own client or indemnity cost basis.

## **10. Right to amend terms and conditions**

10.1 The Company reserves the right to amend terms and conditions of this agreement by giving the Client notice in writing of the amended terms and conditions to the Client's address as specified on the face of this agreement or as notified by the Client from time to time. The Client is deemed to accept any amended Terms and Condition unless it notifies the Company in writing within seven days of its objection to the proposed amendment to the Terms and Conditions.

## **11. Set-off**

11.1 The Client agrees that:

- (a) The Company may set-off any credit amount that the Company owes to the Client against any debt due by the Client to the Company at the Company's sole discretion; AND
- (b) The Client is not entitled to withhold payment of any money in respect of any alleged set-off or claim the Client might have against the Company.

## **12. Severance and Waiver**

12.1 If any part of this agreement is found to be void, unlawful, or unenforceable then that part will be deemed to be severed from the agreement and the severed part will not affect the validity and enforceability of any remaining provisions. Any waiver of the Company's right under this agreement must be in writing and signed by an authorised representative of the Company.

## **13. Jurisdiction**

13.1 The agreement shall be deemed to have been made in Queensland and shall be interpreted in accordance with the Laws of Queensland, Australia, and the parties submit to the exclusive jurisdiction of the Queensland Courts.

**14. Consumer Credit Code**

14.1 The Client and Guarantors declare that the credit to be provided is to be applied wholly or predominantly for business purposes and not for personal, domestic or household purposes.

**Acknowledgement**

I/We acknowledge that I/we have read and understood the contents of these terms and conditions.

**Signature of Applicant # 1**

..... /  
*Signature* *Date*

*Name (please print)*

**Signature of Applicant # 2**

..... /  
*Signature* *Date*

*Name (please print)*

**Signature of Applicant # 3**

----- / *Signature* *Date* -----

*Name (please print)*

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