

APPLICATION FOR A COMMERCIAL CREDIT ACCOUNT

TO: Perth Health Pty Ltd, Wholesale Distributors, ABN 66 630 488 472
1 Corbusier Place, Balcatta WA 6021, Tel: 9240 2088, Fax: 9240 2988, Email: info@phfwa.com
(Perth Health)

By this application the Applicant applies to Perth Health for a 30 Day Credit Account. Please read this document carefully.

FROM: Applicant:

COMPLETE IF THE APPLICANT IS A COMPANY				
Company name	("Applicant")		ACN	
Registered office			Post code	
Business name (if any)			Registered no (if any)	
Date of incorporation			Sate of registration	
Authorised capital	\$	Paid up capital		\$
Director(s) ("Directors") details				
	Surname	Given Names	Residential Address	Date of Birth
1				/ /
2				/ /
3				/ /
4				/ /

COMPLETE IF THE APPLICANT IS A SOLE TRADER OR PARTNERSHIP					
Trading name	("Applicant")		Registered bus. no. (if any)		
Proprietor(s) ("Proprietors") details					
	Surname	Given Names	Residential Address	Occupation	Date of Birth
1					/ /
2					/ /
3					/ /
4					/ /

COMPLETE FOR ALL APPLICANTS			
Type of business/industry			Years established
ABN			Trading bank name
Trading bank branch			Bank account number
Business address			Post code
Postal address			Post code
Phone number			Facsimile number
Accounts contact: name			Mobile number
Landline phone number			Email address
Estimated aggregate maximum credit limit required from Perth Health			\$
Has the Applicant or any of the Proprietors or Directors (as applicable):			
1	Had any of its or their property or assets attached as a result of a court order, had winding up proceedings instituted against it or them, or entered into voluntary administration or bankruptcy?		<input type="checkbox"/> YES <input type="checkbox"/> NO
2	Been refused credit, either individually, as a partnership or as a director or shareholder of a company?		<input type="checkbox"/> YES <input type="checkbox"/> NO
Trust and trustee details (if applicable): Do the Applicant or any Directors or Proprietors act as trustee of a trust? If so:			
Name of Trustee			Name of Trust
Type of Trust			(Discretionary/ Family Unit)
Land owned by Proprietors, Directors and /or Company			
Registered Owner	Address of Real Property	Current Value	Mortgages & Encumbrances
		\$	\$
		\$	\$
		\$	\$
		\$	\$

Business references			
	Company/Individual name	Person to contact (if company)	Phone number
1			
2			

Statement of Applicant's Assets and Liabilities: Attach a copy of your current balance sheet or provide the following:

Name of contact for financial statements	Phone number
Value of assets (incl. sundry debtors (short & long term), real property, plant & equipment, motor vehicles & household furniture)	\$
Value of liabilities (incl. sundry creditors (short & long term), mortgage, all finance (incl. personal & business loans & credit cards)	\$

TERMS AND CONDITIONS

1. Definitions and Interpretation

In these Terms and Conditions (**Conditions**) and this Application:

Agreement means the agreement constituted by the approval of this application by Perth Health.

Business Day means a day that is not a Saturday, Sunday or Public Holiday in Western Australia.

Credit Limit means the aggregate maximum credit limit to be extended to the Applicant by Perth Health.

Goods means goods ordered by the Applicant from Perth Health pursuant to the Agreement.

PPSA means the *Personal Properties Securities Act 2009* (Cth).

Services means services ordered by the Applicant from Perth Health pursuant to the Agreement.

2. Acceptance of the Application

The Application is approved upon receipt by the Applicant of written notification of approval (**Notification**) from Perth Health or by supply of Goods and/or Services by Perth Health to the Applicant on credit which supply is governed by the Agreement.

3. Credit Limit

- (a) The Notification may state the Credit Limit determined at Perth Health's sole discretion.
- (b) If Perth Health approves the Application it is not required to extend credit to the Applicant above the Credit Limit.
- (c) Perth Health may alter the Credit Limit or the terms of the Agreement upon notice to the Applicant and/or extend credit to the Applicant in excess of the Credit Limit, in its absolute discretion.

4. Payment

- (a) Perth Health will provide the Applicant with a monthly statement (**Statement**) setting out details of the amount owed to Perth Health by the Applicant. The applicant must pay all amounts owing as set out in any Statement within 30 days of the date of the Statement unless a shorter time is specified in the Statement in which case within that shorter time.
- (b) Any payment made by the Applicant of less than the nett amount shown on any Statement is deemed payment of the price of the Goods and/or Services which were supplied first in time, equivalent to the amount of such payment.
- (c) Time for payment under the Agreement and Statements is of the essence. If the Applicant does not pay on time Perth Health may treat the Agreement as repudiated by the Applicant or suspend the provision of Goods and/or Services to the Applicant without incurring any liability whatsoever to the Applicant and without prejudice to any other remedies allowed by law to Perth Health.
- (d) Any Statement or document signed by an employee or agent of Perth Health that states that an amount is owed by the Applicant to Perth Health is conclusive evidence that the amount stated is correct and owing, except in the case of manifest error. Any claim by the Applicant that a Statement contains a manifest error must be received by Perth Health within 14 days of receipt of the Statement by the Applicant or the Applicant will be deemed to have accepted the Statement as correct and properly issued.

5. Costs

- (a) The Applicant must pay all costs and expenses (including debt collection fees and commissions and legal expenses on a solicitor/client basis) incurred or payable by Perth Health in connection with recovering amounts overdue under this Agreement.
- (b) Without prejudice to Perth Health's rights under any other provision of the Agreement, if the Applicant fails to pay any amount to Perth Health when due to be paid then the Applicant must (if required by Perth Health) pay interest to Perth Health on the outstanding amount (or part thereof) at a rate of 15% per annum, calculated from the due date to the last day of the month of actual payment.

6. Passing of Risk

The Goods are at the Applicant's risk from the time the Goods leave Perth Health's premises.

7. Passing of Property and PPSA

- (a) Ownership of the Goods remains with Perth Health until the Applicant has paid the full the price of the Goods to Perth Health with no set off or deduction of any kind.
- (b) The Applicant agrees with Perth Health that once the Goods are received by the Applicant, the Applicant must:
 - (i) store the goods separately from property belonging to the Applicant; and
 - (ii) if the Applicant:
 - A. makes, produces or manufactures a new object from the Goods whether finished or not;
 - B. incorporates or mixes the Goods with other goods; or
 - C. allows the Goods to become part of other goods,
(each, **New Goods**), then the ownership of the New Goods immediately passes to Perth Health at the moment of the event or single operation by which the Goods are converted into, are incorporated or mixed, or become part of the New Goods and the Applicant must keep the New Goods on behalf of Perth Health and must store the New Goods separately from property belonging to the Applicant.
- (c) Notwithstanding clause 7(b), prior to paying in full the monies owing to Perth Health the Applicant may sell the Goods or the New Goods to a third party ("**TP**") in the ordinary course of its business and deliver the Goods or New Goods to the Third Party provided:
 - (i) where the Applicant is paid by the TP, the Applicant holds the whole of the proceeds of sale (**Proceeds**) on trust for Perth Health and must forthwith pay the Proceeds, or such part thereof necessary to pay in full any moneys owing to Perth Health; and
 - (ii) where the Applicant is not paid by the TP, the Applicant must assign its claim against the TP in respect of the sale of the Goods or the New Goods to the TP, to Perth Health upon notice in writing by Perth Health to the Applicant requesting such assignment.
- (d) Perth Health and any of its employees or agents, is hereby irrevocably authorised to enter upon any premises occupied by the Applicant in order to retake possession of any Goods for which payment has not been made on time under the Agreement.
- (e) The Applicant consents to Perth Health registering its interest in the Goods, any New Goods and Proceeds as a purchase monies securities interest under the PPSA. The Applicant must sign all documents and provide all information and assistance required to effect that registration. The Applicant waives the right to receive a verification statement in relation to any such registration. The Applicant undertakes (subject to clause 7(c)) to:
 - (i) do anything required by Perth Health to maintain or perfect Perth Health's interest in the Goods, the New Goods and the Proceeds, and to ensure that Perth Health's interest, rights and obligations are not adversely affected by the PPSA;
 - (ii) not grant any security interest in the Goods, the New Goods and the Proceeds to any third party; and
 - (iii) not register or allow to be registered a financing statement in respect of the Goods, the New Goods and the Proceeds in favour of any entity.

8. Exclusion

- (a) Perth Health is not liable to the Applicant for any economic or consequential loss, damage or other expenses whatsoever suffered by the Applicant arising out of or in connection with any fault or defect in the Goods and/or Services (whether or not such fault or defect was caused by the negligence of Perth Health) and to the extent capable of exclusion all warranties and guarantees established by legislation or common law or equity and deemed to form part of this Agreement are hereby excluded.
- (b) The Conditions shall be read in conjunction with the terms and conditions of any invoice, statement or other document provided to the Applicant by Perth Health in respect of Goods and Services and in the case of a conflict in interpretation, the Conditions prevail.

9. Default

If:

- (a) the Applicant breaches its obligations under the Agreement and does not remedy the default or breach within seven (7) days; or
- (b) a judgment, order or encumbrance is enforced, or becomes enforceable upon any of the Applicant's property; or
- (c) any bankruptcy proceedings are instituted against the Applicant (if applicable); or
- (d) the Applicant enters into any arrangement with its creditors or cannot pay its debts as and when they fall due; or
- (e) the Applicant becomes subject to any external administration under any law applicable to corporations; or
- (f) a change occurs in a circumstance which is represented under the Agreement to exist which Perth Health in its absolute discretion deems to have a material adverse affect on the ability of the Applicant to observe its obligations under the Agreement,

then Perth Health may, without prejudice to any other rights or remedies which it might have, and acting through any of its employees or agents cancel the provision of credit to the Applicant without notice and is entitled to immediate payment of all money owing to it by the Applicant and amounts payable for all Goods and Services then supplied.

10. **Representations**

The Applicant and any Directors and Proprietors, warrant the correctness of all information in this Application provided by them and acknowledge that Perth Health has relied on that information in determining whether or not to grant credit and the amount (if any) granted.

11. **Charge**

The Applicant hereby charges all land owned now or in the future acquired by it to secure payment of all monies which are or may be owing under this Agreement and –

- (a) consents to an absolute caveat being registered by Perth Health at any time in respect of such land to protect its charge; and
- (b) must enter into a mortgage in respect of such land immediately upon request of Perth Health, such mortgage containing such standard clauses prepared by Perth Health's solicitors as those solicitors require.

12. **Set-Off**

The Applicant irrevocably authorises Perth Health to set-off against any sums which may be due to Perth Health under this Agreement and any other sums which may be owed by Perth Health to the Applicant.

13. **Returns**

- (a) Any:
 - (i) request to return Goods by the Applicant to Perth Health; or
 - (ii) claim by the Applicant that a credit should be applied against the Applicant's account in respect of any Goods or Services provided, (each a **Claim**) must be made within three Business Days of receipt of the Goods or Services by providing full details in writing.
- (b) If the Claim is approved by Perth Health in its absolute discretion and otherwise in accordance with its statutory obligations that are unable to be excluded the Claim will be allocated an authorisation number. No returned Goods will be accepted or account credit applied unless an authorisation number has been allocated by Perth Health.
- (c) If a Claim is made for any reason attributable to any entity other than Perth Health and an authorisation number is allocated then a restocking fee of 20% of the value of the Claim is applicable.
- (d) Notwithstanding the allocation of an authorisation number Goods returned will not be accepted and no credit will be applied to any account where the Goods have been marked, tagged or damaged in any way by any party after leaving the possession of Perth Health or the Goods are out of date.
- (e) The Applicant is responsible for all freight and other charges incurred or payable in returning the goods unless otherwise agreed by Perth Health in writing.

14. **Prices and cash on delivery orders**

- (a) Perth Health may change any price of any of its Goods and Service without notice to the Applicant.
- (b) An additional \$7.00 charge will apply to any order where the aggregate value of the order is less than \$200.00.

15. **General**

- (a) Perth Health may, in accordance with the *Privacy Act 1988* (Cth) (as amended) (**Privacy Act**) including sections 18K(1), 18E and 18N:
 - (i) seek from any source including *credit reporting agencies*, *credit providers* and *banks* reports containing *personal information* about the Applicant, the Directors and the Proprietors in order to assess whether to approve the Application and determine any Credit Limit and for that purpose, may disclose *personal information* about those parties (as prescribed in the *Privacy Act*) to that agency; and
 - (ii) give to and seek from any *credit providers* named in a *credit report* issued by a *credit reporting agency* or as business referees in this Application information about the Guarantor's personal and other credit arrangements as allowed in the *Privacy Act*.

Italicised terms in this clause 15(a) have the meaning given to them in the *Privacy Act*.
- (b) This Agreement is governed by and construed in accordance with the laws of Western Australia, and the Applicant agrees to submit to the exclusive jurisdiction of the Courts of Western Australia. The Applicant irrevocably waives any objection to the venue of any legal proceedings selected by Perth Health.
- (c) If the Application is made by more than one Applicant, each Applicant is jointly and severally liable under this agreement.
- (d) No waiver by Perth Health of any right under the Agreement is effective unless in writing and signed by Perth Health.
- (e) The Applicant must not assign or transfer any of its rights or obligations in connection with the Agreement.
- (f) The Agreement supersedes all prior agreements, understandings and negotiations.
- (g) No variation of the Agreement is effective unless expressly accepted by Perth Health in writing signed by a director of Perth Health.
- (h) If any clause of the Agreement is or becomes wholly or partly invalid or unenforceable, that clause is severed to the extent of the invalidity without prejudice to the remainder of the Agreement.
- (i) Any notice provided to the Applicant by Perth Health in connection with the Agreement is deemed to be received by the Applicant 2 business days after posting if posted, at the time shown in a facsimile transmission report if sent by facsimile and at the time the email is sent, if sent by email in each case to the relevant address set out in the Application (or such other address as the Applicant advises to Peel Health in writing from time to time).
- (j) The Applicant is not entitled to make any deduction from any amount owing to Perth Health in respect of any set off or counterclaim.
- (k) The Applicant must pay all duties, fees and expenses in connection with the Application and the Agreement including stamp duty and the registration, withdrawal or discharge of any caveats or mortgages (as the case may be).
- (l) The Applicant must notify Perth Health in writing not later than fourteen (14) days before a change in effective control of the Applicant or of any change or alteration of any particulars contained in this Application. Upon receipt of such notice Perth Health is entitled to review the agreement, and in its sole discretion, to terminate the Applicant's credit facilities upon seven (7) days written notice (the **Notice Period**) to the Applicant. At the expiry of the Notice Period Perth Health is entitled to immediate payment by the Applicant of all money owing to it by the Applicant and amounts payable for all Goods and Services then supplied and the Applicant indemnifies Perth Health in respect of any loss arising from the Applicant's failure to provide the notification contemplated in this clause.
- (m) If the Applicant signs the Application as the trustee of any trust (**Trust**) the Applicant is personally liable for the performance of the Agreement and agrees that Perth Health's right of recourse pursuant to this Agreement shall not be limited to the Applicant's assets but shall extend to the assets of the Trust.
- (n) The Applicant indemnifies Perth Health for any loss or damage caused to Perth Health due to its lawful exercise of its rights under the Agreement or the breach by the Applicant of any of its obligations under the Agreement and releases Perth Health from any obligations it may have in respect of any goods repossessed by it under the Agreement.

SIGNED SEALED AND DELIVERED by all Directors Proprietors (tick as applicable) this day of20who each represent and warrant that he or she is authorised by the Applicant to make this Application on its behalf and to bind the Applicant to the Agreement

(signature of Director/Proprietor)

(name of Director/Proprietor)

(signature of Director/Proprietor)

(name of Director/Proprietor)

(signature of Director/Proprietor)

(name of Director/Proprietor)

(signature of Director/Proprietor)

(name of Director/Proprietor)

DEED OF GUARANTEE AND INDEMNITY

TO: Perth Health (as defined in the attached Application)
 This deed of guarantee and indemnity ("**Guarantee**") is made by:

	Name of Guarantor	Address of Guarantor	Postcode
1			
2			
3			
4			

hereinafter referred to in this Guarantee jointly and severally as "**Guarantor**".

RECITALS:

_____ ("**Debtor**"), has submitted an application to be provided with goods and/or services on credit ("**Application**") by Peel Health on the terms and conditions set out in the Application.

IT IS AGREED THAT:

- If Perth Health approves the Application ("the **Agreement**"), then the Guarantor agrees jointly and severally with Perth Health to guarantee the performance of the terms and conditions of the Agreement by the Debtor and the punctual payment by the Debtor of all sums owed by the Debtor to Perth Health (whether the subject of the Agreement or not).
- The aggregate credit limit (if any) stated in the Application and/or Agreement shall not affect the scope of this guarantee.
- This Guarantee is irrevocable and continuing and the liability of the Guarantor under it is not limited or affected, and the rights of Perth Health under this guarantee remain fully enforceable, notwithstanding the occurrence of any one or more of the following circumstances:
 - the granting of any indulgence or concession at any time by Perth Health to the Debtor;
 - any variation of the Agreement, with or without the Guarantor's prior knowledge;
 - any compromise, release, discharge, waiver or variation of any right by Perth Health;
 - the fact that monies payable by the Debtor to Perth Health may not be revocable or may cease to be recoverable in whole or in part;
 - the existence now or at any future time of any legal disability in the Debtor or the Guarantor or any person named as a Guarantor;
 - the death of a person named as a Guarantor (in which case his or her estate shall have continuing liability under this guarantee);
 - the bankruptcy or insolvency of any Guarantor, or any deed of arrangement, assignment or composition entered into for the benefit of creditors of such an entity; and
 - the fact that one or more of the persons named as a Guarantor may never execute this guarantee or that the execution of this guarantee by any one or more of such Guarantors (other than the persons sought to be made liable hereunder) is or may become unenforceable.
- The Guarantor indemnifies Perth Health against all costs and expenses incurred by Perth Health in respect of any breach by the Debtor in performing in accordance with the terms and condition of the Agreement and punctually paying any debt owed to Perth Health, and must pay all costs and expenses incurred by Perth Health in respect of any breach by the Guarantor of the terms and conditions of this guarantee.
- If any payment made to Perth Health and later avoided by any statutory provisions is deemed not to have discharged the Guarantor's liability, then Perth Health, the Debtor and the Guarantor are restored to the rights and liabilities which each respectively would have had if the payment had not been made.
- The Guarantor must not prove or claim in any bankruptcy, liquidation, composition, arrangement or assignment or in respect of the appointment of any liquidator, administrator, receiver or trustee until Perth Health has received 100 cents in the dollar in respect of monies owing by the Debtor to Perth Health and the Guarantor must hold in trust for Perth Health such proof and claim and any dividend received thereon.
- Perth Health may, in accordance with the *Privacy Act 1988* (Cth) (as amended) (**Privacy Act**) including sections 18K(1), 18E and 18N:
 - seek from any source including *credit reporting agencies, credit providers and banks* reports containing personal information about the Guarantor in order to assess whether to accept the Guarantor as a guarantor in respect of credit applied for by or provided to the Debtor and for that purpose, may disclose *personal information* about the Guarantor (as prescribed in the *Privacy Act*) to that agency; and
 - give to and seek from any *credit providers* named in a *credit report* issued by a *credit reporting agency* information about the Guarantor's personal and other credit arrangements as allowed in the *Privacy Act*.

Italicised terms in this clause 15(a) have the meaning given to them in the *Privacy Act*.
- The Guarantor hereby charges all land owned now or in the future acquired by Guarantor to secure payment of all monies which are or may become owing by the Debtor to Perth Health whether under the Agreement or otherwise and or this guarantee and:
 - consents to an absolute caveat being registered by Perth Health at any time in respect of such land; and
 - must enter into a mortgage in respect of such land immediately upon request of Perth Health's solicitors.
- Perth Health is not obliged to take any action or give notice to the Debtor or to make demand against the Debtor before claiming against the Guarantor.
- This Guarantee binds the personal representatives, assigns, transferees, or successors of the Guarantor.
- Perth Health may at any time assign all or any of the benefits and advantages of this Guarantee to any person as it thinks fit without prior notice to the Guarantor.
- The Guarantor shall pay all duties, fees and expenses associated with the grant of this Guarantee, and the registration of any caveats, withdrawals of caveats, mortgages or discharge of mortgages and stamp duty.
- The Guarantor acknowledges that each person named as a Guarantor has had full and ample opportunity prior to the execution of this guarantee to obtain independent legal advice as to the extent of this guarantee.
- A statement in writing signed by an officer, employee or agent of Perth Health as to any matter or as to any amount payable to Perth Health pursuant to this guarantee as at the date set out in the statement is conclusive evidence of that amount being owed, except in the case of manifest error.
- This guarantee continues to bind the Guarantor notwithstanding any changes which may from time to time take place in the composition, shareholders, proprietors or partners of the Debtors.
- Perth Health may at any time in its absolute discretion and without giving any notice whatsoever to the Guarantor refuse credit or supply of goods and/or services to the Debtor.
- Any demand, note or document to be served on the Guarantor may be served by delivering it or posting it to the Guarantor at the address or at each address stated above provided however that the making of such a demand is not a condition precedent to any liability hereunder.
- This guarantee shall be construed according to the laws of Western Australia.
- The Guarantor agrees to submit to the exclusive jurisdiction of the courts of Western Australia.
- The Guarantor irrevocably waives any objection to the venue of any legal process selected by Perth Health.
- The Guarantor irrevocably waives any immunity in respect of its obligations under this guarantee that it may acquire from the jurisdiction of any court or any legal process for any reason including, but not limited to, the service notice, attachment prior to judgement, attachment in aid of execution or execution.
- If any of the entities named as Guarantor execute this guarantee as the trustee of any trust ("the Trust"), such Guarantor is liable for the performance of all covenants contained in this guarantee and agrees that Perth Health's right of recourse under this guarantee will not be limited to that person's assets, but extend to the assets of the trust.

Executed as a deed this _____ day of _____ 20

SIGNED SEALED AND DELIVERED by each Guarantor

_____	_____
(signature of Guarantor)	(signature of witness)
_____	_____
(name of Guarantor)	(full name and address of witness)
_____	_____
(signature of Guarantor)	(signature of witness)
_____	_____
(name of Guarantor)	(full name and address of witness)
_____	_____
(signature of Guarantor)	(signature of witness)
_____	_____
(name of Guarantor)	(full name and address of witness)
_____	_____
(signature of Guarantor)	(signature of witness)
_____	_____
(name of Guarantor)	(full name and address of witness)