



ABC Photosigns

## ABC PHOTOSIGNS PTY LTD CREDIT APPLICATION FORM

### SECTION 1 – THE CUSTOMER

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ENTITY TYPE     Sole Trader                       Partnership                       Company                       Trust

ENTITY NAME

NAME OF TRUSTEE (if customer entity type is a trust, otherwise leave blank)

TRADING NAME

ABN

ACN (if company)

TRADING ADDRESS

  

POSTAL ADDRESS (Leave blank if same as trading address)

  

ACCOUNTS PAYABLE CONTACT PERSON

BUSINESS TELEPHONE NUMBER

ACCOUNTS TELEPHONE NUMBER

EMAIL

### SECTION 2 – OWNERSHIP DETAILS

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*Director / Partner / Trustee #1*

FULL NAME

RESIDENTIAL ADDRESS

*Director / Partner / Trustee #2*

FULL NAME

RESIDENTIAL ADDRESS

*(Attach further pages if more space required)*

Initial each page:

Date:

**ABC PHOTOSIGNS PTY LTD CREDIT APPLICATION FORM**

**SECTION 3 – PRIVACY PROTECTION OF INFORMATION**

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ACKNOWLEDGMENT AND CONSENT that credit information may be given to a credit reporting agency. Under Section 18E(8)(c) of the *Privacy Act 1988*, ABC Photosigns Pty Ltd is allowed to give a credit reporting agency personal information about your Credit Application which includes:-

- The fact that you have applied for credit and the amount;
- The fact that ABC Photosigns Pty Ltd is a current credit provider to you;
- Payments which may 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 ABC Photosigns Pty Ltd you have committed a serious credit infringement;
- That credit provided to you by ABC Photosigns Pty Ltd has been paid or otherwise discharged;
- Identity particulars - your name, address, gender, current address, two immediately previous addresses, your current or last known employer and your driver's licence number.

AGREEMENT THAT ABC Photosigns Pty Ltd may seek consumer information, (under Section 18K(1)(b) of the *Privacy Act 1988*).

If ABC Photosigns Pty Ltd considers it relevant to assessing my/our Application for commercial credit, I/we agree to ABC Photosigns Pty Ltd obtaining from a credit reporting agency or

a financial institution a credit report containing personal credit information about me/us. If ABC Photosigns Pty Ltd considers it relevant to collecting overdue payments in respect of commercial credit provided to me/us, I/we agree to ABC Photosigns Pty Ltd receiving from a credit reporting agency or a financial institution a credit report containing personal information about me/us in relation to collecting overdue payment.

AGREEMENT TO ABC Photosigns Pty Ltd seeking from or giving to other credit providers details about my/our credit worthiness (under Section 18N(1)(b) of the *Privacy Act 1988*). I/we AGREE THAT ABC Photosigns Pty Ltd may give to and seek from any credit providers named in this credit Application and any credit provider that may be named in a credit report arrangement. 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 1988*.

I/we understand that 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 the loan where I am/we are in default with other credit providers;
- To assess my/our credit worthiness.

**ACCEPTANCE OF TERMS AND CONDITIONS**

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1. I/we have read and understand and agree to be bound by **ABC Photosigns Pty Ltd.'s Terms and Conditions**.
2. I/we covenant that the information supplied in this application is true and correct.

**Signed on behalf of the Customer:**

Signature	Full Name	Position held	Date
Signature	Full Name	Position held	Date
Signature	Full Name	Position held	Date

<b>Initial each page:</b>	<b>Date:</b>
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**ABC PHOTOSIGNS PTY LTD CREDIT APPLICATION FORM**

**IMPORTANT**

**This is a legal document. If you do not understand this document you should seek independent legal advice.  
This document must be signed by all directors of any corporate customer in the presence of an independent witness  
who is not a spouse or partner of any director**

**PERSONAL GUARANTEE AND INDEMNITY**

I/We, ..... (each Director) have asked  
ABC Photosigns Pty Ltd to provide goods and/or services on credit to the Customer described in the Credit Application Form.

1. In consideration of ABC Photosigns Pty Ltd agreeing at the request of the guarantors to enter into the Terms and Conditions with the Customer, I/We the undersigned directors of the Customer (the guarantors) unconditionally guarantee the due and punctual payment to ABC Photosigns Pty Ltd on demand of all moneys which the Customer is or becomes actually or contingently liable to pay to ABC Photosigns Pty Ltd on any account whatever under or in relation to the Terms and Conditions (including, without limitation, by way of principal or administration fees, fees, costs, charges, indemnity or damages and all moneys which the Customer becomes actually or contingently liable to pay to ABC Photosigns Pty Ltd) (the secured moneys).
2. This guarantee:
  - (a) is a principal obligation and will not be treated as ancillary or collateral to any other right or obligation however created or arising;
  - (b) may be enforced against the guarantor without ABC Photosigns Pty Ltd first being required to exhaust any remedy it may have against the Customer or to enforce any security it may with respect to the secured moneys;
  - (c) is a continuing guarantee and indemnity for the whole of the secured moneys and will be irrevocable and will remain in full force and effect until discharged;
  - (d) will not be considered as wholly or partially discharged by the payment at any time of any of the secured moneys or by any settlement of account or by any other matter or thing whatsoever and will apply to the present and future balance of the secured moneys;
  - (e) will not be considered discharged by any payment made to ABC Photosigns Pty Ltd that is later avoided by law and in such event the parties shall be restored to the rights that each had as if the payment had not been made.
3. The liability of the guarantor is absolute and will not be effected by any act, omission, matter or thing which but for this provision will operate to release or otherwise exonerate its obligations in whole or in part including, without limiting the generality of the foregoing:
  - (a) the grant to the Customer or any other person of any time, waiver, or other indulgence or concession, or the discharge or release of any other security or guarantee held by ABC Photosigns Pty Ltd in respect of the secured moneys;
  - (b) the insolvency (which in this guarantee includes bankruptcy administration, compromise, arrangement, amalgamation, reconstruction, winding up, dissolution and assignment for or compromise with creditors) of the Customer;
  - (c) ABC Photosigns Pty Ltd exercising or refraining from exercising any other security or guarantee, or any of their rights, powers or remedies conferred on it by law or by Terms and Conditions or any other agreement with any other person or taking or failing to take any other security or guarantee;
  - (d) the variation (including a variation which increases the secured moneys) extinguishment, unenforceability, failure, loss, release, discharge, abandonment or transfer either in whole or in part of the Terms and Conditions or any security or guarantee now or in the future by ABC Photosigns Pty Ltd from any person.
  - (e) the Customer's obligations under the Terms and Conditions or any part of them being or becoming wholly or partially illegal, void, voidable, or unenforceable;
  - (f) the failure by ABC Photosigns Pty Ltd to give notice to the guarantor of any default by the Customer under the Terms and Conditions; or
  - (g) any legal limitation, disability, incapacity, or other circumstances related to the Customer.
4. If the Customer becomes insolvent, the guarantor authorises ABC Photosigns Pty Ltd to prove all moneys which the guarantor will have paid under this guarantee and to retain and carry into a suspense account and to appropriate at the discretion of ABC Photosigns Pty Ltd any dividends received in the liquidation, bankruptcy, or other insolvency of the Customer and all other moneys received in respect of the secured moneys until ABC Photosigns Pty Ltd has been paid the secured moneys in full.

**Initial each page:**

**Date:**

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5. Where this guarantee is given by more than one person, the obligations on the part of the guarantor take effect as joint and several obligation and references to the guarantor take effect with reference to these persons or any of them. None of them will be released from liability under this guarantee by reason of any other guarantor not executing this guarantee, or this guarantee ceasing to be binding as a continuing security on any other guarantor, and the release by ABC Photosigns Pty Ltd of any guarantor from this guarantee will not affect the liability of the other guarantors.
6. The guarantor shall reimburse ABC Photosigns Pty Ltd the expenses of ABC Photosigns Pty Ltd incurred in connection with the enforcement of, or the preservation of any rights under this guarantee including legal costs and expenses on a full indemnity basis.
7. This guarantee and the rights of ABC Photosigns Pty Ltd under it maybe assigned or transferred by way of security or absolutely by ABC Photosigns Pty Ltd without the consent of the Customer or the guarantor.
8. To give full effect to this guarantee, should the company fail or neglect to pay the lawful demand of ABC Photosigns Pty Ltd within 14 days, ABC Photosigns Pty Ltd shall be at liberty to proceed directly against the guarantors as if they were principal debtors and may serve any notice in writing signed by an officer or agent of ABC Photosigns Pty Ltd and or by post to the address stated below of the last known address of any guarantor.
9. **Authority to Caveat:** As additional security for the secured moneys, the guarantor charges in favour of ABC Photosigns Pty Ltd by way of fixed charge all their right title and interest in and to any property now held or acquired by them in the future, whether held or acquired jointly or individually, of any kind, whether real or personal or of whatsoever nature provided always that this clause shall only take effect upon the occurrence of the Customer and/or the guarantor failing to pay any of the secured moneys.

**EXECUTED as a deed**

<p><b>DIRECTOR'S FULL NAME (print)</b> .....</p> <p>Signature.....</p> <p><b>WITNESSED BY (Full Name)</b> .....</p> <p>Witness signature.....</p> <p>Address.....</p> <p><b>Date</b> ...../...../.....</p>	<p><b>DIRECTOR'S FULL NAME (print)</b> .....</p> <p>Signature.....</p> <p><b>WITNESSED BY (Full Name)</b> .....</p> <p>Witness signature.....</p> <p>Address.....</p> <p><b>Date</b> ...../...../.....</p>
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## ABC PHOTOSIGNS PTY LTD A.C.N. 125 720 792 ("ABC") TRADING TERMS AND CONDITIONS

### 1. DEFINITIONS

- 1.1. ABC is ABC Photosigns Pty Ltd ACN 072 230 650.
- 1.2. The Customer is the party or any person acting on behalf of and with the authority of the Customer that the Order is provided for.
- 1.3. The Order is defined as any request for the provision of Goods and/or Services by the Customer with ABC which has been accepted by ABC.
- 1.4. Major failure refers to Major failure as defined under the *Competition and Consumer Act 2010* and the *Fair Trading Acts* in each of the States and Territories of Australia.

### 2. GENERAL

- 2.1. These Terms and Conditions together with ABC's written or verbal quotation form this Agreement, and should be read in conjunction with ABC's credit application form.
- 2.2. Any Order requested by the Customer is deemed to be an Order incorporating these Terms and Conditions and may not be varied unless expressly agreed to by ABC in writing. In the event that an inconsistency exists and/or arises between these terms and the Order it is acknowledged between the parties that these Terms and Conditions will prevail.
- 2.3. The Terms and Conditions are binding on the Customer, his heirs, assignees, executors, trustees and where applicable, any liquidator, receiver or administrator.
- 2.4. Where more than one Customer completes this Agreement each shall be liable jointly and severally.
- 2.5. If any provision of these Terms and Conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired and the offending provision shall be deemed as severed from these Terms and Conditions.
- 2.6. The failure by ABC to enforce any provision of these Terms and Conditions shall not be treated as a waiver of that provision, nor shall it affect ABC's right to subsequently enforce that provision.
- 2.7. Nothing in these Terms and Conditions is intended to have the effect of contravening any applicable provisions of the *Competition and Consumer Act 2010* or the *Fair Trading Acts* in each of the States and Territories of Australia.

### 3. PLACEMENT OF ORDERS

- 3.1. Orders placed by the Customer with ABC will be considered valid when placing the Order verbally and/or in writing.
- 3.2. Any written Quotation given by ABC shall expire sixty (60) days after the date of the written quotation. Quotations may also be provided to the Customer verbally.
- 3.3. All prices are based on taxes and statutory charges current at the time of the Quotation. Should these vary during the period from the date of the Quotation to the date of the invoice, the difference will become the responsibility of the Customer and the Customer will be invoiced for the extra charge by ABC.

### 4. PRICE

- 4.1. GST will be charged on the Goods and Services provided by ABC that attract GST at the applicable rate.
- 4.2. ABC reserves the right to change the Price to ABC's Order in the event of a variation which was previously unknown or unforeseen by the parties at the time the Order was placed, and notice will be provided in writing by ABC within a reasonable time.

### 5. SUPPLY AND DELIVERY OF GOODS AND/OR SERVICES

- 5.1. At any time before payment is made by the Customer, ABC reserves their right to decline requests for any Goods/Services.
- 5.2. Unless specified by the Supplier to the contrary in the Order, the Supplier does not warrant that it will be capable of providing the Goods/Services at specific times requested by the Customer.

### 6. PREMISES

If ABC is required to provide goods and/or services at a premises owned by a third party:

- 6.1. The Customer covenants it is authorised by the owner of the premises to direct ABC to provide goods and/or services at the premises.
- 6.2. The Customer is responsible for ensuring that ABC has access to the premises to enable it to provide the goods and/or services. If the Customer fails to provide ABC with proper access to the premises, ABC may at its discretion charge a fee for its costs of attendance and/or attempted delivery.
- 6.3. ABC shall not be held responsible for any delay or failure to provide the goods and/or services if ABC's work is interfered with or no proper or safe access is provided to ABC.

### 7. PAYMENT TERMS

#### Credit account customers

- 7.1. A credit account will only be granted at the sole discretion of ABC and upon submission of a completed Credit Application Form by the Customer. ABC shall notify the Customer in writing upon acceptance of the Customer's application for a credit account.
- 7.2. Credit account customers will be invoiced monthly. Credit account customers must make payment of ABC's invoices within thirty (30) days from the end of month of the invoice date.
- 7.3. ABC may revise the terms of the Customer's credit account at its discretion.

- 7.4. ABC reserves the right to withdraw any credit facility upon any breach by the Customer of these Terms of Conditions and/or the Customer committing an act of insolvency. The Customer agrees that upon such withdrawal, any and all monies owing on the account shall become immediately due and payable.

#### Non-credit customers

- 7.5. Non-credit customers must make full payment of ABC's invoices prior to the supply of the goods and/or services.

#### Default

- 7.6. If the Customer fails to pay any of ABC's invoices by their respective due dates, ABC will be entitled to charge interest at the rate of 10% per annum.
- 7.7. In the event where ABC incurs legal fees as a result of the Customer's default, the Customer shall be liable to pay as a liquidated debt the charges reasonably made or claimed by ABC's lawyer on an indemnity basis.

### 8. RISK AND LIABILITY

- 8.1. ABC relies upon the integrity of the information supplied by the Customer. The Customer will ensure when placing Orders that there is sufficient information to enable ABC to execute the Order and that ABC is made aware of any special requirements pertaining to the Order.
- 8.2. ABC takes no responsibility if the specifications provided by the Customer are wrong, inaccurate or insufficient, and the Customer will be liable in that event for:
  - 8.2.1. Any expenses incurred by ABC to rectify the Order; and
  - 8.2.2. Any Indirect, Special or Consequential loss resulting in the goods and/or services being faulty or unfit for purpose as a consequence of the information provided by the Customer.
- 8.3. ABC takes no responsibility for representations made in relation to the Goods and/or Services or any delay in the delivery of the Goods made by a third party/third party manufacturer which was or is beyond ABC's reasonable control.
- 8.4. The Customer acknowledges that ABC shall not be liable for and the Customer releases ABC from any indirect, special or consequential loss incurred as a result of ABC's delay or failure to provide the goods and/or services or to observe any of these conditions due to an event of force majeure for any cause or circumstance beyond ABC's reasonable control.
- 8.5. The Customer accepts risk in relation to the Goods when the Goods pass to the Customer's control.

### 9. TERMINATION AND CANCELLATION

#### Cancellation by Supplier

- 9.1. ABC may cancel any Order to which these Terms and Conditions apply or cancel delivery of Goods at any time before payment is made by the Customer by giving written notice to the Customer. ABC shall not be liable for any loss whatsoever (including indirect, special or consequential loss) arising from such cancellation.
- 9.2. Without prejudice to ABC's other remedies at law, ABC shall be entitled to cancel all or any part of any Order of the Customer which remains unfulfilled and all amounts owing to ABC shall, whether or not due for payment, become immediately payable in the event that:
  - 9.2.1. Any money payable to ABC becomes overdue; or
  - 9.2.2. The Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
  - 9.2.3. A receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

#### Cancellation by Customer

- 9.3. An Order cannot be cancelled by the Customer unless expressly agreed to by ABC in writing.
- 9.4. In the event that the Customer cancels an Order the Customer shall be liable for any loss incurred by ABC (including, but not limited to, any loss of profits) up to the time of cancellation.

### 10. SET-OFF

- 10.1. The Customer shall have no right of set-off in any suit, claim or proceeding brought by ABC against the Customer for default in payment.
- 10.2. The Customer acknowledges that ABC can produce this clause in bar of any proceeding for set-off.

### 11. PRIVACY ACT 1988

- 11.1. The Customer and/or any Guarantor (if applicable) agrees;
  - 11.1.1. For ABC to obtain from a credit reporting agency a credit report containing personal credit information about the Customer and Guarantor/s in relation to credit provided by ABC.
  - 11.1.2. That ABC may exchange information about the Customer and the Guarantor/s with those credit providers either named as trade referees by the Customer or named in a consumer credit report issued by a credit reporting agency.
  - 11.1.3. The Customer consent to ABC being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) *Privacy Act 1988*).

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