

Application For Commercial Credit

TREADWELL™

Treadwell Group Pty Ltd
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P 0800 244 600
sales@treadwellgroup.co.nz

Please read this application carefully and ensure all questions are answered fully.

INFORMATION WILL BE TREATED AS STRICTLY CONFIDENTIAL



WARNING: If you do not understand this document, you should seek independent legal advice. Please do not use correction fluid or tape as this is a legal document. Any corrections should be crossed out and initialled.

Section One

PARTICULARS

Registered Entity Name:			
Entity Type:	<input type="radio"/> Public Company <input type="radio"/> Pty Ltd Company <input type="radio"/> Partnership <input type="radio"/> Sole Trader <input type="radio"/> Trust <input type="radio"/> Other <input type="radio"/> Trustee <input type="radio"/> Gov./Statutory Authority		
Date Commenced:			
New Zealand Business Number:			
New Zealand Company Number:			
Trading Name:			
Trust Name:			
Business Office Address:		Post Code:	
		State:	
Postal Address:		Post Code:	
		State:	

This Credit Application is for 30 day terms. If you require longer than 30 days please notify us. There may be additional charges or service fees. Please note our fees below...

Account Credit Limit	Account Setup Fee	Exceptions
Less than \$25,000 NZD	N/A	N/A
Greater than \$25,000 NZD Less than \$100,000 NZD	\$57.00 NZD ex GST	This fee is waived if the account is utilised for more than \$25,000 NZD in the following 30 days after approval.
Greater than \$100,000 NZD	\$92.00 NZD ex GST	This fee is waived if the account is utilised for more than \$100,000 NZD in the following 30 days after approval.

OFFICE USE ONLY	Account Name:			
	Assessed By:		Date:	
	Conditions:			
	Confirmed By: (phone, letter, e-mail, etc.)		Date:	

Section Two

ACCOUNTS DEPARTMENT DETAILS

Account Payable Contact Details	Name:		Telephone:	
	E-Mail:		Fax:	
Bank Details	Bank:		Branch:	
Credit Limit				

Section Three

CREDIT REFERENCES

CR1

Business Name:				
Registered Business Address:		Post Code:		
		State:		
Phone Number:		Acc. Establishment date:		
Fax Number:		Monthly Spend:		

CR2

Business Name:				
Registered Business Address:		Post Code:		
		State:		
Phone Number:		Acc. Establishment date:		
Fax Number:		Monthly Spend:		

CR3

Business Name:				
Registered Business Address:		Post Code:		
		State:		
Phone Number:		Acc. Establishment date:		
Fax Number:		Monthly Spend:		

Partner/Director 1					
Residential Address					
Phone:		D.O.B:		Drivers Lic. No.	

Partner/Director 2					
Residential Address					
Phone:		D.O.B:		Drivers Lic. No.	

Partner/Director 3					
Residential Address					
Phone:		D.O.B:		Drivers Lic. No.	

Partner/Director 4					
Residential Address					
Phone:		D.O.B:		Drivers Lic. No.	

WHERE THE CONSUMER GUARANTEES ACT 1993 APPLIES TO ANY GOODS OR SERVICES NOTHING IN THESE TERMS AND CONDITIONS LIMITS OR AFFECTS THE CUSTOMER'S RIGHTS AND REMEDIES UNDER THAT ACT.

1. **DEFINITIONS** In these Terms and Conditions of Sale **"Treadwell"** means Treadwell Group Pty Ltd (ACN 140529200) which is registered as an overseas company in New Zealand (NZBN 9429046308443) and any related company of Treadwell within the meaning of section 2(3) of the Companies Act 1993, **"the Customer"** means the entity purchasing the Products the subject of these terms and condition of sale and **"the Products"** means the products manufactured by Treadwell or otherwise offered by sale by Treadwell and are as recorded in any invoices, order form or any other document or statement issued by Treadwell.
2. **BINDING TERMS AND CONDITIONS** The only contractual terms which are binding upon Treadwell are those set forth here or otherwise agreed to in writing by Treadwell and those, if any, which are imposed by law and which cannot be excluded. These terms and conditions and any contract including them shall be governed by the laws of South Australia and Treadwell and the Customer submit to the non-exclusive jurisdiction of the Courts of South Australia.
3. **PRICES** The prices for the Products shall be as contained in the relevant price list or as agreed by Treadwell and unless otherwise stated are exclusive of Products and Services Tax ("GST"). Treadwell reserves the right to correct prices where the price includes any error. Unless expressly agreed otherwise in writing by Treadwell prices for the Products are *Ex Works* per Incoterms 2020® (this means the risks and costs of delivery from Treadwell's warehouse, factory or depot are Customer's responsibility).
4. **QUOTATIONS** Any quotation from Treadwell shall not be construed or operate as an offer or obligation to sell but shall be an invitation to treat only. Treadwell reserves the right to accept or reject in its absolute discretion any orders which may be received for or on behalf of the Customer by it.
5. **ORDERS** All orders for the purchase of the Products shall be subject to acceptance by Treadwell. Treadwell reserves the right to cancel any order or remaining part thereof or to suspend delivery to the Customer if the Customer is overdue with any payment, commits any act of bankruptcy or becomes insolvent within the meaning of the Insolvency Act 1967 or the Companies Act 1993. Treadwell reserves the right to vary or withdraw the credit limit of the Customer at any time in its absolute discretion.
6. **CANCELLATION** The Customer cannot change or cancel an order for the purchase of the Products accepted by Treadwell and the delivery of Products ordered by the Customer cannot be deferred and Products ordered cannot be returned, except with the prior written consent of Treadwell and then (subject to clause 8 or clause 16 of these terms and conditions), in addition to any other rights Treadwell may have.:
 - (a) In the case of a proposed change to the details, sizes and/or quantities or delivery schedule of Products ordered by the Customer, to the extent Treadwell can comply with such proposed changes Treadwell may adjust the price and delivery schedule in its absolute discretion for such changes;
 - (b) In the case of a proposed cancellation of the order, Treadwell may to the extent permitted by law:
 - (i) require the Customer to reimburse and indemnify Treadwell against all loss it has incurred or may incur as a result of the change, cancellation, deferral or return, including (without limitation) cartage, bank charges and other incidental expenses incurred on any part of the order that is cancelled; and / or
 - (ii) where Treadwell agrees to accept Products for return, require the Customer to pay a re-stocking charge of 20% of the price of the Products returned; and / or
 - (iii) retain any deposit paid by the Customer.

Treadwell shall have the right to cancel any orders for Products which it has accepted, if due to circumstances beyond Treadwell's control it would be impractical or unreasonable to fill the order or if any information supplied by the Customer is materially incorrect. Treadwell also has the right to cancel any orders for Products on written notice to the Customer:

- (a) If the Customer breaches these terms and conditions and fails to remedy the breach within 7 days of receiving notice to do so;
- (b) If the Customer suffers an insolvency event;
- (c) If in Treadwell's opinion any other event occurs which is likely to materially adversely affect the Customer's ability to meet its obligations to Treadwell under these terms and conditions.

Treadwell's termination rights are in addition to any other rights or remedies it has under these terms and conditions or at law or in equity. Following cancellation of an order Treadwell may take all necessary steps to repossess the Products in respect of which ownership has not passed to the Customer. The Customer authorises Treadwell (including where required as agent of the Customer) to enter the premises where the Products are situated to enable Treadwell to repossess the Products. The Customer indemnifies Treadwell from and against all costs, claims, actions and liabilities Treadwell may suffer or incur as a consequence of terminating an order of the Contractor or repossessing the Products including legal costs on an indemnity basis.

7. **PARTIAL SUPPLY** Treadwell may deliver the Products in instalments as they become available and may require payment for each separate instalment in accordance with these terms and conditions. If Treadwell is unable to supply the Customer's total order these terms and conditions will continue to apply.
8. **ACCEPTANCE** The Customer shall inspect the Products without delay upon delivery and shall within 3 days from the date of delivery give written notice to Treadwell of any matter or thing including short delivery where the Customer alleges that the Products are not in accordance with the contract. If the Customer fails to give such notice, then to the extent permitted by statute the Products shall be deemed to have been accepted by the Customer and the Customer shall pay for the Products in accordance with these terms and conditions.
9. **PAYMENT TERMS** Unless Treadwell agrees otherwise in writing, the Customer must pay one-third (33 ⅓ %) of the total price of the Products at the time of Treadwell accepting the order for the purchase of the Products and where credit has not been expressly granted to the

Customer, Treadwell will invoice the Customer on delivery for the balance of the purchase price and payment must be made at the time of delivery.

Where credit has been granted to the Customer payment for the Products sold by Treadwell to the Customer shall be made no later than the end of the period specified on the relevant invoice. If any part of an invoice is in dispute the balance shall remain payable. The Customer shall have no right to set off any claim against Treadwell from moneys owing to Treadwell.

10. **SANCTIONS FOR LATE PAYMENT** If the Customer defaults in making payment to Treadwell in accordance with these terms and conditions Treadwell may in its absolute discretion
 - (a) Require the Customer to pay interest on all amounts overdue to Treadwell at the rate of 2% (2 percent) per month, which interest will accrue and be recoverable each day or part thereof that the amount remains overdue.
 - (b) require the Customer to reimburse Treadwell for all collection costs (including, without limitation, debt collection agency fees and lawyer's fees on a solicitor-own client basis) incurred by Treadwell in connection with the default and/or to institute such recovery process as shall in the absolute discretion of Treadwell be appropriate in the circumstances.
11. **DELIVERY** Unless otherwise agreed by Treadwell, the Customer is responsible for the cost of and arranging transportation of the Products. Treadwell will use its best endeavours to see that deliveries are made according to schedule but shall not be responsible for delivery delays due to causes beyond its control. If late delivery occurs for any reason, then the nominated delivery date(s) shall be extended by such reasonable period of time as determined by Treadwell to take account of the events causing late delivery.
12. **NO IMPLIED SERVICE** The Customer acknowledges that unless otherwise agreed in writing by Treadwell, nothing in these terms and conditions entitles the Customer to demand to receive from Treadwell any site inspection, installation or other service in connection with the Products supplied by Treadwell. If the Customer does require Treadwell's services in respect of site inspection, installation and/or service of the Products then, the Customer must arrange with Treadwell to enter a separate written agreement for such service, inspection and/or installation.
13. **RISK AND INSURANCE** The Products supplied by Treadwell to the Customer's will be at the Customer's sole risk immediately on delivery to the Customer (i.e., Ex-Works unless agreed otherwise in writing per clause 3) or into the Customer's custody including its carrier (whichever is the sooner). The Customer should insure the Products at its cost against such risks as it thinks appropriate and shall note the interest of Treadwell on the policy and shall produce a certificate to this effect to Treadwell on request.
14. **RETENTION OF TITLE** Property in the Products supplied by Treadwell to the Customer pursuant to these terms and condition will not pass to the Customer until those Products and all other Products supplied by Treadwell to the Customer have been paid for in full. Until the goods have been paid for in full:
 - (c) The Customer shall store the Products in such manner as to show clearly that they are the property of Treadwell, and
 - (d) The Customer may sell the Products, in the ordinary course of its business, as agent and in fiduciary capacity for Treadwell and shall account to Treadwell for proceeds (including any proceeds from insurance claims) which shall be kept in a separate bank account.
 - (e) The Customer irrevocably authorises Treadwell at any time, to enter any premises upon which:
 - (i) The Products subject to this clause are stored to enable Treadwell to:
 - (A) Inspect the Products; and/or
 - (B) If the Customer has breached the contract, reclaim possession of the Products;
 - (ii) The Customer's records pertaining to the Products are held to inspect and copy such records. The Customer and Treadwell agree that the provisions of this clause apply notwithstanding any arrangement between the parties under which Treadwell grants the Customer credit.

The Customer acknowledges and agrees that Treadwell may recover the price of the Products by legal action if the Products are not paid for within Treadwell's usual credit terms or any separate arrangement for credit made by Treadwell with the Customer despite the property in the Products has not passed to the Customer.

15. **PERSONAL PROPERTY SECURITIES ACT 1999** Where the Products are supplied to the Customer on credit the Customer acknowledges that these terms and conditions, any invoices or other documents or statements issued by Treadwell creates a security interest ("security interest") (as that term is defined in the Personal Properties Securities Act 1999 ("PPSA")) in the Products, and for avoidance of doubt, the proceeds of sale of the Products. The Customer will, if requested by Treadwell, sign any documents, provide all necessary information and do anything else required by Treadwell to ensure that the security interest is a perfected purchase money security interest (as that term is defined in the PPSA).

The Customer agrees, (to the extent permitted under the PPSA and unless Treadwell agrees by notifying the Customer in writing), that the Purchase will have no rights under Part 9 (Enforcement) of the PPSA. For example, but without limitation, the Customer will have no rights under sections 114(1)(a) and 116 (to receive notice of sale and statement of account), sections 121(2) and 122 (to receive any proposal or object to any proposal to retain the goods), sections 125 and 129 (relating to removal and accessions), and sections 132 and 133 (to redeem the Products or reinstate the contract).

The Customer waives its right under the PPSA to receive a copy of any verification statement or financing change statement (as those terms are defined in the PPSA).

16. **CONSUMER GUARANTEES ACT 1993 AND EXPRESS WARRANTY FOR BUSINESS USE** If the Customer is acquiring the Products for the purposes of a business, then all of the guarantees and remedies in the Consumer Guarantees Act 1993 are excluded, and the

provisions of the clauses below shall apply.

Treadwell warrants that all Products are of merchantable quality and this warranty remains in force for the period of 90 days immediately following delivery ("express warranty"). Treadwell may, however, choose to give a specific written warranty, in relation to particular Products, in addition or substitution to the express warranty in this clause, in which case the specific written warranty will apply to those Products not the express warranty.

No claim may be made by the Customer under the express warranty unless:

- (a) The claim is received by Treadwell within 90 days of delivery or 7 days of the defect complained of becoming apparent, whichever is the earlier;
- (b) The claim is confirmed in writing and accompanied by proof of purchase; and
- (c) Treadwell is given a reasonable opportunity to inspect and verify the claim.

Treadwell's liability under the express warranty is, in all cases, limited to the amount of the price of the goods in respect of which the warrant is given. Treadwell may perform the express warranty by doing any one of the following at its option:

- (a) replace the goods, or supply equivalent goods;
- (b) repair the Products or workmanship; or
- (c) give a credit for or refund the price.

The express warranty does not cover:

- (a) any defect caused or contributed to by the Customer;
- (b) any attempt to repair the defective goods made by any person not authorised by Treadwell to make such repairs; or
- (c) costs for the shipment of defective goods to the place of repair.

Treadwell excludes all other representations, warranties (whether express or implied) and liabilities either in contract, tort or under any other legal principle, or otherwise.

17. **PRIVACY ACT 1993 AUTHORISATION** Where the Products are supplied to the Customer on credit the Customer irrevocably authorises Treadwell, to use the personal information given by the Customer to Treadwell for credit application purposes to make such enquiries as it deems necessary to investigate the creditworthiness of the Customer. The Customer further authorises third parties to disclose to Treadwell such information concerning the Customer which is within their possession and which is requested by Treadwell for the purpose of checking the creditworthiness of the Customer. The Customer acknowledges that it has the right of access to and to ask for correction of personal information.
 18. **FORCE MAJEURE** Treadwell shall not be liable for any loss, damage or delay caused by any acts of God or public enemies, riots, civil insurrection, labour disputes, strikes, lock-outs, mechanical breakdown, fire, flood, shortage of raw materials, public health emergencies, epidemics or pandemics, unforeseeable changes in laws or regulations or any cause beyond Treadwell's control.
 19. **VIENNA SALES CONVENTION** The provisions in the Sale of Products (United Nations Convention) Act 1994 which gives effect to the United Nations Convention on Contracts for the International Sale of Products (Vienna 1980) known as the Vienna Sales Convention do not apply to the contract comprised by these terms and conditions nor do any of the terms and conditions express or implied by the Vienna Sales Convention form part of the contract.
 20. **EXCLUSION OF LIABILITY** Subject to clause 16 and to the maximum extent permitted by law, Treadwell will not be liable to the Customer or to any other person:
 - (a) for any loss or damage:
 - (i) caused by any delay in delivery however that delay is caused;
 - (ii) arising indirectly or directly from the Customer altering or modifying the Products, mis-applying the Products, or where the Customer has subjected them to any unusual or non-recommended use, servicing or handling;
 - (iii) caused by any factors beyond Treadwell's control;
 - (iv) arising in circumstances where the terms of any written warranty have not been complied with or any manufacturer's handbook provided to the Customer has not been complied with
 - (b) for loss of revenue, loss of profits, loss of production, loss of use, loss of contract, loss of business or loss of opportunity, whether arising directly or indirectly, or for any indirect or consequential loss of any kind
- If Treadwell is ever liable to the Customer, or any other person, and Treadwell cannot rely on the exclusions of representations, warranties or liabilities set out above, then Treadwell's liability in all cases is limited to the amount of the price of the particular Products.
21. **CHANGES TO THESE TERMS** Treadwell may change these terms at any time by changing or removing existing terms or adding new ones. Any change applies from the time it is published on our web site at www.treadwellgroup.co.nz

The Customer acknowledges that the Goods it will acquire from Treadwell Group will be obtained for either the purpose of re-supply (whether or not in an altered form or as part of some other manufacture) or for the purpose of using them up or transforming them in trade or commerce in the course of a process of production or manufacture or in the course of repairing or treating other goods or fixtures on land.

Who must sign this Agreement on behalf of the Customer:

For Companies: Where there is only one director for the company then that person must sign; where there are two or more directors for the company the two Directors or a Director Company Secretary must sign. Signed under Section 18 of the Companies Act 1993

Sole Traders operating under their own name or under a business name: The individual
Partnership: Two partners of the Partnership.

Where this is not possible please contact the Treadwell Group Accounts Department on 1800 246 800 – details as per mailing instruction or Personal Guarantee and Indemnity Agreement – page 9.

The Customer agrees to the bound by the Credit Account Terms and Conditions stated in Section Five of this Agreement.

SIGNATORY 1	If submitted electronically, no signature is required, but this must be completed by the person whose name appears above.		
Signed/Electronically Executed By:		Date:	
Position:			
Signature:			

SIGNATORY 2	If submitted electronically, no signature is required, but this must be completed by the person whose name appears above.		
Signed/Electronically Executed By:		Date:	
Position:			
Signature:			

DEED OF PERSONAL GUARANTEE, INDEMNITY AND CHARGE (THIS SECTION MUST BE COMPLETED)

In consideration of Treadwell Group Pty Ltd and its successors and assigns (“the Seller”) at the request of the Guarantor (as is now acknowledged) supplying and continuing to supply goods and/or services to the Buyer (as defined in the Terms and Conditions)

I/We, the **Guarantor(s)**, _____
*Insert Guarantor(s) name as applicable

have requested the Seller to supply _____
Insert Buyer’s Company Name/Partnership/Sole Trader

Trust Name (if a Trust) _____
Insert Buyer’s Trust Name

Trading as (if applicable) _____
Insert Buyer’s Registered Business Name

(the “Buyer”) of _____
Insert Buyer’s Street Address (not a PO Box) State Postcode

With Goods & Services on Credit

Note: *If the Buyer is a Sole Trader or Partnership the Guarantor(s) should be some other suitable person(s). **If the Buyer is a club or incorporated society the Guarantor(s) should be the president and secretary or other committee member/s ***All Directors, Sole Traders, Business Partners and any other Guarantors complete, print and sign below as Guarantors in the presence of Independent Witnesses (not Spouses or Family Members).

I/We (Also Referred To As The “Guarantor/s”) Unconditionally and Irrevocably agree with the Seller as follows:

- Guarantee** the due and punctual payment to the Seller of all moneys which are now owing to the Seller by the Buyer and all further sums of money from time to time owing to the Seller by the Buyer in respect of goods and services supplied or to be supplied by the Seller to the Buyer or any other liability of the Buyer to the Seller, and the due observance and performance by the Buyer of all its obligations contained or implied in any contract with the Seller, including but not limited to the terms and conditions agreed to by the Buyer. If for any reason the Buyer does not pay any amount owing to the Seller the Guarantor will immediately on demand pay the relevant amount to the Seller. In consideration of the Seller agreeing to supply the Goods to the Buyer, the Guarantor charges all of its right, title and interest (joint or several) in any land, realty or other assets capable of being charged, owned by the Guarantor now or in the future, to secure the performance by the Guarantor of its obligations under these terms and conditions (including, but not limited to, the payment of any money) and the Guarantor acknowledges that this personal guarantee and indemnity constitutes a security agreement for the purposes of the Personal Property Securities Act 2009 (“PPSA”) and unequivocally consents to the Seller registering any interest so charged. The Guarantor irrevocably appoints the Seller and each director of the Seller as the Guarantor’s true and lawful attorney/s to perform all necessary acts to give effect to this clause including, but not limited to, signing any document on the Guarantor’s behalf which the Seller may reasonably require to:
 - register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
 - register any other document required to be registered by the PPSA or any other law; or
 - correct a defect in a statement referred to in clause 1(a) or 1(b).
- Hold Harmless And Indemnify the Seller on demand as a separate obligation against any liability (including but not limited to damages, costs, losses and legal fees calculated on a solicitor and own client basis) incurred by, or assessed against, the Seller in connection with:
 - the supply of goods and/or services to the Buyer; or
 - the recovery of moneys owing to the Seller by the Buyer including the enforcement of this Guarantee and Indemnity, and including but not limited to the Seller’s nominees costs of collection and legal costs; or
 - moneys paid by the Seller with the Buyer’s consent in settlement of a dispute that arises or results from a dispute between, the Seller, the Buyer, and a third party or any combination thereof, over the supply of goods and/or services by the Seller to the Buyer.
- I/We have received, read and understood the Seller’s Terms and Conditions prior to entering into this Guarantee and Indemnity and agree to be bound by those Terms and Conditions.
- This Guarantee and Indemnity shall constitute an unconditional and continuing Guarantee and Indemnity and accordingly shall be irrevocable and remain in full force and effect until the whole of moneys owing to the Seller by the Buyer and all obligations herein have been fully paid satisfied and performed.
- No granting of credit, extension of further credit, increase of the credit limit, or granting of time and no waiver, indulgence or neglect to sue on the Seller’s part (whether in respect of the Buyer or any one or more of any other Guarantor(s) or otherwise) and no failure by any named Guarantor to properly execute this Guarantee and Indemnity shall impair or limit the liability under this Guarantee and Indemnity of any Guarantor. Without affecting the Buyer’s obligations to the Seller, each Guarantor shall be a principal debtor and liable to the Seller accordingly.

6. If any payment received or recovered by the Seller is avoided by law such payment shall be deemed not to have discharged the liability of the Guarantor, and the Guarantor and the Seller shall each be restored to the position in which they would have been had no such payment been made.
7. The term "Guarantor" whenever used in this Guarantee and Indemnity shall, if there is more than one person named as Guarantor, mean and refer to each of them individually and all of them together unless the context otherwise requires, and the obligations and agreements on the part of the Guarantor contained in this Guarantee and Indemnity shall bind them jointly and severally.
8. I/We have been advised to obtain independent legal advice before executing this Guarantee and Indemnity. I/we understand that I/we am/are liable for all amounts owing (both now and in the future) by the Buyer to the Seller.
9. I/We irrevocably authorise the Seller to obtain from any person or company any information which the Seller may require for credit reference purposes. I/We further irrevocably authorise the Seller to provide to any third party, in response to credit references and enquiries about me/us or by way of information exchange with credit reference agencies, details of this Guarantee and Indemnity and any subsequent dealings that I/we may have with the Seller as a result of this Guarantee and Indemnity being actioned by the Seller.
10. The above information is to be used by the Seller for all purposes in connection with the Seller considering this Guarantee and Indemnity and the subsequent enforcement of the same.

Guarantor 1

Print Name (in block letters):		
Home Address:		
Date of Birth:	Driver's Licence:	
Signed, sealed and delivered as a Deed:		Date:

Witness

Print Name (in block letters):		
Home Address:		
Date of Birth:	Driver's Licence:	
Signed, sealed and delivered as a Deed:		Date:

Guarantor 2

Print Name (in block letters):		
Address:		
Occupation:		
Signed:		
Date:		

Witness

Print Name (in block letters):		
Address:		
Occupation:		
Signed:		
Date:		