

## **Pan Pac Forests Products Limited**



1161 State Highway 2 (Wairoa Road)  
Whirinaki, Hawke's Bay  
Private Bag 6203, Napier

Telephone: (06) 831 0100

Facsimile: (06) 836 6443

("the Company")

## **Application for Credit and Terms of Trade**

**“The Company”**  
**Part A**  
**Application for Credit**

Type of organisation:	<input type="checkbox"/> Company	<input type="checkbox"/> Partnership	<input type="checkbox"/> Trust	<input type="checkbox"/> Sole Trader	<input type="checkbox"/> Other
Name of organisation					("the Buyer")
Trading name					
Postal address					
Physical address					
Business phone		Mobile			
Home phone		E-mail			
NZBN (NZ Business number)					
Company Number			Date of Registration		
Nature of business					
Years in business		Expected monthly value of purchases	\$		
Net Assets	\$				
Please nominate someone to be the contact person for your organisation					
Full name					
Postal address					
Contact phone		Mobile		E-mail	

<b>Directors and Management</b>		<input type="checkbox"/> Directors	<input type="checkbox"/> Partners
	Full name	Address	
1.			
2.			
3.			
4.			
5.			
6.			
If more than 6 please attach a separate sheet			

Buyer/Guarantor to initial each page

If a Sole Trader			
First name		Middle name(s)	
Surname		Date of birth	
Please attach copy of birth certificate, passport or driver's license			

Professional Consultants			
Bank		Branch	
Auditors/Accountants			
Solicitors			

Trade References	Do not give holding or subsidiary companies, banks or solicitors. Detail only trade relationships.			
	Company Name	Location	Phone	Email
1.				
2.				
3.				

Other			
1.	Would annual accounts be available if requested?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
2.	Are owners and/or directors prepared to sign a personal guarantee if required	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Guarantors	Full names, addresses and phone numbers are required		
1.			
2.			
3.			
("The Guarantor")			

Buyer/Guarantor to initial each page

## Part B

# Terms and Conditions of Trade

### 1. Conditions of supply

- 1.1. The Buyer acknowledges that all goods supplied by the Company to the Buyer are supplied subject to the Company's terms and conditions of trade ("the Terms") as set out herein.
- 1.2. The Buyer agrees to adhere strictly to the Terms in all respects.
- 1.3. The Company may amend or vary the Terms from time to time by giving notice to the Buyer.

### 2. Payment

- 2.1. The Buyer must make payment of all invoices by the 20th of the month following the date of the invoice, without setoff or deduction.
- 2.2. The Buyer acknowledges that failure to pay any invoice by the due date will be a breach of the Terms, and the Company may, without prejudice to any other rights or remedies it may have, charge default interest at the current overdraft rate charged by the Company's bank, plus a margin of 5 percent per annum. Default interest may be payable on any money outstanding from the first day of the month that immediately follows the date a payment was due, until the date payment is received by the Company.
- 2.3. The Buyer agrees that any debt collection costs, administration fees, legal costs or any other costs incurred by the Company in respect of any late payment by the Buyer will be payable by the Buyer on demand.

### 3. Risk

- 3.1. The risk of any loss, or damage to, or deterioration of goods due to any cause whatsoever will be borne by the Buyer from the time when the goods are delivered, or deemed to be delivered, as set out in clauses 4.1, 4.2 and 4.3.

### 4. Delivery

- 4.1. If the Company agrees in its quotation or acceptance, to sell "free into the Buyer's store", delivery will be deemed complete when the goods are actually delivered to the Buyer's premises or to the place agreed by the Company in its quotation or acceptance.
- 4.2. If the Company agrees in its quotation or acceptance to sell "ex-yard the Company", delivery will be deemed complete when the Company has placed the goods at the disposal of the Buyer, or delivered the goods into the possession of the freight company transporting the goods on behalf of the Buyer. The Company may agree to arrange freight and/or insurance as agents for and on behalf of the Buyer. The cost of freight and/or insurance will be the exclusive responsibility of the Buyer, and all amounts paid by the Company will be payable by the Buyer on demand or, if included as an invoice, in accordance with that invoice. No agreement to arrange freight on behalf of the Buyer will be deemed to change in any manner the ex-yard nature of the sale.
- 4.3. If the Company agrees in its quotation or acceptance to sell on terms other than in clauses 4.1 or 4.2, delivery is deemed to be complete when both parties agree that title to the goods has passed to the Buyer.

### 5. Claims

- 5.1. Once an order has been completed, the Company will have the discretion as to whether it will accept a return. Consent by the Company to a return must be in writing. The Buyer may be liable for a return charge to cover clerical and other expenses incurred by the Company. The Buyer will also be liable for any delivery or insurance charges.
- 5.2. All claims and requests for credit must be presented in writing by the Buyer to the Company within 21 days of the issue of an invoice. Claims will be processed in accordance with Company procedures, which require that the relevant invoice numbers be quoted. The Buyer will make payment of any invoice on the due date without set off or deduction unless the Company notifies the Buyer in writing that the claim or request for credit has been accepted. Where the Company has accepted a claim or request for credit, clauses 2.2 and 2.3 will not apply.
- 5.3. Goods are supplied subject to all conditions, warranties and limitations implied by law, provided however that the extent of the Company's liability will be limited to replacement of faulty materials only.
- 5.4. The Buyer agrees that the Company is not liable for any damage (including, but not limited to, any extra processing or value adding costs) incurred by the Buyer consequential on or resulting from any goods being found defective or in any way unsuitable.
- 5.5. When supplying products outside the Company's general range and manufactured specifically to the Buyer's specifications or other requirements, the Company reserves the right to deliver up to 10% over or under the quantity ordered by the Buyer.
- 5.6. The Buyer confirms by acceptance of the Terms that the Buyer is purchasing the goods for business purposes only, and not for any personal, domestic or household domestic use, and the terms of the Consumer Guarantees Act 1993 will not apply.
- 5.7. No warranty is given by the Company as to the fitness or suitability of the goods for the purpose for which the Buyer may require, and the Company will not be liable if the goods are not fit or suitable for the Buyer's purposes.

### 6. Terms

- 6.1. These Terms will be deemed to be included as terms in any contract between the Company and the Buyer and, in the case of any conflict arising between these Terms and the terms of the Buyer's order, or any other contract, then the Terms will prevail.
- 6.2. These Terms replace any previous agreement, understanding or arrangement between the parties (whether written or verbal).

### 7. Title to Goods

- 7.1. Title to all goods supplied by the Company will remain with the Company until payment for the goods and all other amounts owing to the Company by the Buyer is made in full. Until payment is made in full, the Company is entitled to the proceeds of any sale of the goods.

Buyer/Guarantor to initial each page

- 7.2. The Company supplies the goods to the Buyer on the condition that the Company has a purchase money security interest in the goods in terms of the Personal Property Securities Act 1999 ("the PPSA").
- 7.3. The Buyer agrees to store the goods in a manner which makes them readily identifiable as the Company's goods, and must not remove, deface or obliterate any serial numbers or distinctive markings, which identify the goods as the Company's.
- 7.4. If the goods supplied by the Company to the Buyer are installed within premises of the Buyer or otherwise, the Buyer agrees that they will remain fittings, which are removable, and not fixtures. The Company may disconnect or sever the goods as may be necessary to remove them, and will not be liable for any damage caused in doing so.
- 7.5. The Company may at any time enter the Buyer's premises in which the goods are stored or kept, without giving notice and without being in any way liable to the Buyer or any other person or company claiming through the Buyer, if the Company has sufficient cause to exercise its rights under section 109 of the PPSA.
- 7.6. To the extent that Part 9 of the PPSA applies, the Company and the Buyer contract out of sections 114(1)(a), 133 and 134 of the PPSA.
- 7.7. To the extent that Part 9 of the PPSA applies, the Buyer waives its rights under sections 116, 120(2), 121, 125, 126, 127, 129 and 131 of the PPSA.
- 7.8. The Buyer will assist the Company by completing any formalities and providing any information required by the Company so that the company may establish and maintain the best security position that it is entitled to under the PPSA.
- 7.9. The Buyer waives its right under section 148 of the PPSA to receive a copy of any verification statement in respect of any financing statement or financing charge statement registered by the Company.
- 7.10. The Buyer must keep the goods in good order and condition, and where reasonable, under cover and fully insured for any loss or damage until title to the goods passes to the Buyer.
- 7.11. The Buyer is be liable to pay to the Company the cost of repair of any goods damaged and requiring repair after repossession, including any loss in value.
- 7.12. The Company may allocate all amounts received by the buyer in any manner it determines, including any manner required to preserve any purchase money security interest (as defined in the PPSA) in the goods.

## 8. Information

- 8.1. The Buyer warrants that the information contained in this application is accurate and complete in all material respects and that it may be held and used by the Company to enable it to:
  - (a) obtain a credit check of the Buyer;
  - (b) consider this application;
  - (c) administer the Buyer's account (if the application is approved);
  - (d) monitor the Buyer's creditworthiness on an ongoing basis; and
  - (e) recover any monies due to the Company by the Buyer or to assist the Company in the exercise of any of its other rights, powers and remedies.
- 8.2. The Buyer authorises any party to provide any information to the Company that the Company may require in relation to its credit enquiries, and this authorisation may be produced for the purposes of making those enquiries. The Buyer authorises the Company to provide any other person with details of this application and of any subsequent dealings that the Buyer may have with the Company as a result of this application being accepted by the Company.
- 8.3. The Buyer agrees to continue to make at all times full and accurate disclosure to the Company of any information that may materially affect the Company's decision to continue to grant credit to the Buyer.
- 8.4. The parties agree that the Buyer may sign and submit this credit application to the Company by facsimile or other electronic means, and if accepted by the Company, this will form a binding agreement between the parties.

## 9. Force Majeure

- 9.1. In the event of any prevention or delay in the production, shipment or delivery of the goods on account of strikes, lockouts, labour disturbances, accidents of machinery, delays en route, restrictions of government or statutory authorities, war, acts of god, shortages of supply or manufacturers' delays or any causes whatsoever beyond the reasonable control of the Company then the Company will not be liable for any delay or non-delivery of all or any part of the goods and the Buyer will be bound to accept either:
  - (a) the delayed delivery of goods within a reasonable time of the projected delivery date; or
  - (b) the cancellation of all or any part of the contract as the case may be,
 and, in each case, the Company will not be liable for any loss sustained by the Buyer.

## 10. Arbitration

- 10.1. Any dispute arising out of or relating to this agreement which is not resolved by discussion or mediation will be determined by arbitration in accordance with the Arbitration Act 1996. Arbitration will be before a sole arbitrator agreed upon by the parties. If the parties are unable to agree upon an arbitrator within five working days, either party may ask the President of the Hawke's Bay branch of the New Zealand Law Society to appoint an arbitrator.

## 11. Assignment

- 11.1. The Buyer may not assign, transfer or novate any or all of its rights or obligations under this agreement without the Company's prior written consent (which may be given or withheld in the Company's complete discretion). A change in the effective management, ownership or control of the Buyer after the date of this agreement will be treated as if it was an assignment for the purposes of this clause.
- 11.2. The Company will have the right to assign or novate any or all of its rights or obligations under this agreement without the consent of the Buyer.

Buyer/Guarantor to initial each page

**In consideration of 'The Company' providing Goods or Services on credit, 'The Buyer' agrees to, and accepts, 'The Company's' Terms and Conditions of Trade contained in this document.**

<b>Signed by Buyer</b>	Companies and Incorporated Bodies * Signed for and on behalf of the Buyer. By its Directors/Authorised persons.		
Print Full Name		Signature	
	Director or Authorised Person		Director or Authorised Person
Print Full Name		Signature	
	Director or Authorised Person		Director or Authorised Person

<b>Signed by Witness</b>			
Print Full Name		Signature	
	Full Name of Witness		Signature of Witness
Print Occupation			
	Occupation of Witness		
Print Location			
	Town/City of Witness		
Dated at		this	day of

\* This document must be executed by a company in accordance with its constitution.  
If two directors sign, then no witnessing is required. In all other circumstances this document must be witnessed.

<b>Or individual, sole trader, partnership, trust</b>			
Print Full Name		Signature	
	Individual, Sole Trader, Partnership, Trust		Individual, Sole Trader, Partnership, Trust
Print Full Name		Signature	
	Individual, Sole Trader, Partnership, Trust		Individual, Sole Trader, Partnership, Trust

<b>Signed by Witness</b>			
Print Full Name		Signature	
	Full Name of Witness		Signature of Witness
Print Occupation			
	Occupation of Witness		
Print Location			
	Town/City of Witness		
Dated at		this	day of

Buyer/Guarantor to initial each page

# Guarantee

**Warning:** This deed creates a liability for the Guarantor for all of the obligations of the Buyer to the Company. The Guarantor is advised to take independent advice before signing this guarantee.

I/We		of	
	(Full Name of Guarantor)		(Home Address)
I/We		of	
	(Full Name of Guarantor)		(Home Address)
I/We		of	
	(Full Name of Guarantor)		(Home Address)

being a director/shareholder/s of the Buyer, request Pan Pac Forest Products Limited (the “Company”) to provide goods and/or services on credit to the Buyer; and in consideration of the Company so doing, I/we personally guarantee (jointly and severally):

1. the due and punctual payment by the Buyer of all money payable by the Buyer to the Company in respect of the goods or services provided by the Company to the Buyer;
2. the due performance of all other obligations of the Buyer to the Company; and
3. if the Buyer defaults in the due and punctual payment of any money referred to in clause 1 or defaults in the due and punctual observance of any of the obligations referred to in clause 2, I/we will pay that money owing to the Company whether or not demand has been made and/or indemnify the Company for any loss suffered by the Company directly or indirectly resulting from any default of the performance of any of those obligations and will pay to the Company upon demand the amount of any such loss.

I/We confirm that:

1. My/Our liability under this guarantee will be a continuing guarantee and will be in full force and effect and irrevocable until discharged in writing by the Company.
2. If there is more than one Guarantor, my/our liability under this guarantee is joint and several.
3. I/We will be entitled to terminate any future obligations under this guarantee by written notice to the Company and will not be liable for payment of any goods delivered to the Buyer by the Company after the date of that notice.
4. My/Our liability will continue even if any guarantor ceases to be a shareholder/director or officer of the Buyer and despite any change in the legal status or constitution of the Buyer
5. My/Our obligations under this guarantee are principal obligations. My/Our obligations are in addition to, and are not in substitution for or collateral to, any security or right that the Company may have in respect of the money due or the obligations of the Buyer under the Terms. The Company may enforce this guarantee without first taking steps against the Buyer or any other person.
6. My/Our liability will continue and will not be discharged, diminished or affected by the Company giving any time, indulgence, extension or credit, waiver or consent at any time to the Buyer or by any variation, modification, amendment to any agreement in respect of the supply of goods or services by the Company or by the illegality and invalidity or unenforceability of any agreement relating to the supply of goods or services by the Company, or the enforcement or failure to enforce any rights under this guarantee.

Buyer/Guarantor to initial each page

7. My/Our liability will continue and will not be discharged, diminished or affected in the event of the dissolution of the Buyer or the appointment of any receiver. In the event of the dissolution of the Buyer, I/we will not, without the prior written consent of the Company take, accept or hold any security from the Buyer or take steps to receive or accept any money or other property or exercise or enforce rights in respect of any indebtedness of the Buyer to me/us or claim or provide in the dissolution of the Buyer in competition with the Company, and if I/we receive any such security, money or property, I/we will pay or transfer it to the Company immediately.
8. As a separate, addition and continuing obligation, I/we unconditionally and irrevocably undertake with the Company that should this guarantee be invalid, unenforceable or illegal for any reason whatsoever (including but not limited to, by reason of any provision being or becoming void, unenforceable or otherwise invalid under any applicable law), then, I/we will, as a sole, original and independent obligor, upon demand, make payment of the amounts referred to in this guarantee by way of full indemnity and will indemnify the Company against all losses, claims, costs, charges and expenses which the Company may be subject to or may incur whilst acting in good faith under or in connection with this guarantee.
9. I/we received, read and understood the Terms entered into by the Company and the Buyer.
10. I/ we acknowledge that:
  - i. I/we received legal advice prior to executing this deed from an independent solicitor; or
  - ii. if I/we did not receive legal advice, then that is contrary to the Company's recommendation and results solely from the my/our own choice, freely made, and in that case I/we irrevocably waive any rights that the lack of independent advice might otherwise have given me/us.

## Executed as a deed

Signed by the Guarantor/s

Print Full Name		Signature	
	Guarantor		Guarantor
Print Full Name		Signature	
	Guarantor		Guarantor
Print Full Name		Signature	
	Guarantor		Guarantor

### Signed by Witness

Print Full Name		Signature	
	Full Name of Witness		Signature of Witness
Print Occupation			
	Occupation of Witness		
Print Location			
	Town/City of Witness		
Dated at		this	day of

Buyer/Guarantor to initial each page