



Head Office, 66 Burnside Road Yatala, Q. 4207  
**ECC Heavy Haulage Pty Ltd**  
**ABN: 83 655 820 769**  
PO Box 653, Ormeau Qld 4208  
Ph: (07) 3807 8205  
E: [admin@eccheavyhaulage.com.au](mailto:admin@eccheavyhaulage.com.au)

## CREDIT ACCOUNT APPLICATION PLEASE USE NEAT PRINT

**To Be Completed By Applicants** - Please complete all sections and read the Terms and Conditions of Trade attached.

DATE:	
TRADING NAME:	
FULL or LEGAL NAME:	
OFFICE PHONE:	
Fax:	
Main point of contact Mobile:	
Accounts Contact:	
Accounts Email:	
Billing Address:	
Office Address:	
State:	
Postcode:	
ABN Number:	
ACN Number:	
Credit Card Details (if applicable)	
Please note that Credit Card payments will incur a 3% surcharge.	

**COMMERCIAL CLIENT'S ONLY**  
Requested Credit

Monthly Credit Limit: \$

**WHAT DETAILS ARE REQUIRED FOR INVOICING?** Please note any other requirements for invoicing:

Purchase Orders?	Yes	No
Signed Dockets?	Yes	No
Can invoices be sent via e-mail?	Yes	No

PLEASE NOTE ANY OTHER REQUIREMENTS FOR INVOICING:




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**DETAILS OF OWNER (If Sole Trader) OR DIRECTORS (If Company)**

Full Name:	
Home Address:	
Phone:	

**PARTNERS (If Partnership)**

Full Name:	
Home Address:	
Phone:	

**TRADE REFERENCES**

Business Name 1:	Phone:
Contact Person:	Address:
Business Name 2:	Phone:
Contact Person:	Address:
Business Name 3:	Phone:
Contact Person:	Address:

**Terms of Trade**

Our account customer terms of trade are **30 DAYS from the end of the invoice month**. An itemized account of all charges, costs and disbursements will be provided on the invoice. Accounts overdue by **21 days incur a 8% administration fee**. If we incur any costs of collection, such as legal fees and collection agency fees etc., you agree to indemnify us for all such costs. Terms of trade must be agreed to prior to commencement of sales transactions between ECC Heavy Haulage Pty Ltd and The Customer.

Once you are satisfied with the terms of our engagement, would you please sign and date two copies of this form. One copy should be forwarded to us as evidence of your acceptance of the terms of our engagement. You should retain the other copy as your evidence of our engagement.

We thank you for your interest in our business and we look forward to developing a strong relationship with you for many years to come.

Yours Sincerely,

ECC Heavy Haulage Pty Ltd

I/We, ("The Customer"), agree to all the terms and conditions as noted in this letter.

\_\_\_\_\_ (Authorized signature of customer to sign).

\_\_\_\_\_ Printed name of authorized signature of customer).

\_\_\_\_\_ (Insert date of signing)

## Personal/Director's Guarantee and Indemnity

**IN CONSIDERATION of ECC Heavy Haulage Pty Ltd and its successors AND ASSIGNS ("THE Company") at the request of the Guarantor (as is now acknowledged) supplying and continuing to supply goods and/or services as requested.**

I/WE (also referred to as the "Guarantor/s") UNCONDITIONALLY AND IRREVOCABLY:

1. GUARANTEE the due and actual payment to the Company of all money's which are now owing to the Company by the Client and all further sums of money from time to time owing to the Company by the Client in respect of goods and services supplied or to be supplied by the Company to the Client or any other liability of the Client to the Company, and the due observance and performance by the Client of all its obligations contained or implied in any contract with the Company. If for any reason the Client does not pay any amount owing to the company the Guarantor will immediately on demand pay the relevant amount to the company.
2. HOLD HARMLESS AND INDEMNIFY the Company on demand as a separate obligation against any liability (including but not limited to damages, costs, losses and legal fees (as defined hereunder in paragraph (b) hereof)) incurred by, or assessed against, the Company in connection with:
  - a) The supply of goods and/or services to the Client; or
  - b) The recovery of moneys owing to the Company by the Client including the enforcement of this Guarantee and Indemnity, and including but not limited to the Company's nominees costs of collection and legal costs calculated on a solicitor and own client basis; or
  - c) moneys paid by the Company with the Clients consent in settlement of a dispute that arises or results from a dispute between, the Company, the Client, and a third party or any combination thereof, over the supply of goods and/or services by the Company to the Client.

I/WE FURTHER ACKNOWLEDGE AND AGREE THAT

3. 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 moneys owing the Company by the client and all obligations herein have been paid satisfied and performed.
4. No granting of credit, extension of further credit, or granting of time and no waiver, indulgence or neglect to sue on the Company's part (whether in respect of the Client and or any one or more of any 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 Client's obligations to the Company, each Guarantor shall be a principal debtor and liable to the Company accordingly.
5. If any payment received or recovered by the Company is avoided by law such payment shall be deemed not to have discharged the liability of the Guarantor, and the Guarantor and the Company shall each be restored to the position in which they would have been had no such payment been made.
6. 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.
7. 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 Client to the Company.
8. I/We irrevocably authorise the Company to obtain from any person or company any information which the Company may require for credit reference purposes. I/We further irrevocably authorise the Company 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 being auctioned by the Company.
9. The above information is to be used by the Company for all purposes in connection with the Company considering the Guarantee and Indemnity and the subsequent enforcement of the same.

### Guarantor 1

### Guarantor 1

FULL NAME:		FULL NAME:	
ADDRESS:		ADDRESS:	
SIGNED:		SIGNED:	

WITNESS'S NAME:		WITNESS'S NAME:	
OCCUPATION:		OCCUPATION:	
SIGNATURE OF WITNESS:		SIGNATURE OF WITNESS:	
ADDRESS:		ADDRESS:	
EXECUTED as a Deed - DATED:		EXECUTED as a Deed - DATED:	

- Note: 1. If Client is a sole trader or partnership the Guarantor(s) should be some other suitable person(s)  
 2. If the Client is a club or incorporated society the Guarantor(s) should be the president and secretary or other committee member.

### WARNING:

**THIS IS AN IMPORTANT DOCUMENT YOU SHOULD SEE YOUR OWN LAWYER OR ADVISOR BEFORE SIGNING IT**

**ECC HEAVY HAULAGE PTY LTD – Terms & Conditions of Trade****1. Definitions**

- 1.1 "Company" shall mean ECC Heavy Haulage Pty Ltd its successors and assigns or any person acting on behalf of and with the authority of ECC Heavy Haulage Pty Ltd.
- 1.2 "Client" shall mean the Client (or any person acting on behalf of and with the authority of the Client) as described on any quotation, work authorisation or other form as provided by the Company to the Client
- 1.3 "Guarantor" means that person (or persons) who agrees to be liable for the debts of the Client on a principal debtor basis.
- 1.4 "Services" shall mean all Services supplied by the Company to the Client and includes any advice or recommendations.
- 1.5 "Equipment" shall mean all Equipment including any accessories supplied on hire by the Company to the Client (and where the context so permits shall include any supply of services). The Equipment shall be as described on the invoices, quotation, authority to hire, or any other work authorisation form provided by the Company to the Client.
- 1.6 "Price" shall mean the price payable for the Services as agreed between the Company and the Client in accordance with clause 4 of this contract

**2. The Commonwealth Trade Practices Act 1974 ("TPA") and Fair-Trading Acts ("FTA")**

- 2.1 Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the TPA or the FTA in each of the States and Territories of Australia, except to the extent permitted by those Acts when applicable.

**3. Acceptance**

- 3.1 Any instructions received by the Company from the Client for the supply of Services and/or the Client's acceptance of Services supplied by the Company shall constitute acceptance of the terms and conditions herein.
- 3.2 Where more than one Client has entered into this agreement, the Clients shall be jointly and severally liable for all payments of the Price.
- 3.3 Upon acceptance of these terms and conditions by the Client their terms and conditions are binding and can only be amended with the written consent of the Company.
- 3.4 The Client shall give the Company not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client or any change in the Client's name and/or any other change in the Client's details (including, but limited to, changes in Client's address, facsimile number, or business practice). The Client shall be liable for any loss incurred by the company with this clause.
- 3.5 Services are supplied by the Company only on the terms and conditions of trade herein to the exclusion of anything to the contrary in the terms of the Clients' order notwithstanding that any such order is placed on terms that purport to override these terms and conditions of trade.

**4. Price and Payment.**

- 4.1 At the Company's sole discretion the Price shall be either:
  - a) As indicated of invoices provided by the Company to the Client in respect of Services supplied: or
  - b) The Company's quoted Price (subject to clause 4.2) which shall be binding upon the Company provided that the Client shall accept the Company's quotation in writing within sixty (60) days.
- 4.2 The Company reserves the right to change the Price in the event of a variation to the Company's quotation. Any variation from the plan of scheduled works or specifications (including, but not limited to, any variation as a result of difficulties assessing the delivery site or as a result of increases to the Company in the cost of materials and labour) will be charged for on the basis the Company's quotation and will be shown as variations on the invoice. Payment for all variations must be made in full at their time of completion.
- 4.3 At the Company's sole discretion payment shall be due on delivery of the Services.
- 4.4 Payment for any escort fees shall be due before delivery of the Services.
- 4.5 The Company may submit detailed progress payment claims in accordance with the Company's specified payment schedule. Such payment claims may include the reasonable value of authorised variations and the value of any materials delivered to the site but not yet installed.
- 4.6 Time for payment for the Services shall be of essence and will be stated on the invoice or any other forms. If no time is stated then payment shall be due seven (7) days following the date of the invoice.
- 4.7 Payment will be made by cheque, or by bank cheque, or by direct credit, or by any other method as agreed to between the Client and the Company.
- 4.8 GST and other taxes and duties that may be applicable shall be added to the Price except when they are expressly included in the Price.
- 4.9 Receipt by the Company of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then the Company's ownership or rights in respect of the Services shall continue.

**5. Delivery of Services**

- 5.1 At the Company's sole discretion delivery of the Services shall take place when the Client takes possession of the Services at the Client's appointed nominated address (in the event that the Services are delivered by the Company or the Company's nominated carrier).
- 5.2 At the Company's sole discretion the costs of Delivery are for the Client's account.
- 5.3 Delivery of the Services to a third party nominated by the Client is deemed to be delivery to the Client for the purpose of this agreement.
- 5.4 The Company may deliver the Services by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions in these terms and conditions.
- 5.5 The failure of the Company to deliver shall not entitle either party to treat this contract as repudiated.
- 5.6 The Company shall not be liable for any loss or damage whatsoever due to failure by the Company to deliver the Services (or any of them) promptly or at all due to circumstances beyond the control of the Company.

**6. Risk**

- 6.1 If the Company retains the Services nonetheless, all risk for the Services pass to the Client on delivery.

**7. Damages**

- 7.1 The Client shall insure that the Company has clear and free access to the work site at all times to enable them to undertake the works.  
The Company shall not be liable for any loss or damage to the site (including, without limitations, damage to pathways, driveways and concreted or paved or grassed areas) unless due to the negligence of the Company.

**8. Underground Location**

8.1 Prior to the Company commencing any work the Client must advise the Company of the precise location of all underground services on the site and clearly mark the same. The underground mains & services the Client must identify include, but are not limited to, electrical services, gas services, sewer sludge mains, pumping services, sewer services, sewer connections, water mains, irrigation pipes, telephone cables, fibre optic cables, oil pumping mains, and any other services that may be on site.

8.2 Whilst the Company will take all care to avoid damage to any underground services the Client agrees to indemnify the Company in respect of all and any liability claims, loss, damage, costs and fines as a result to damages to services not precisely located and notified as per clause 8.1.

**9. Errors and omissions**

9.1 The Client shall within seven (7) days of delivery (time being of the essence) notify the Company of any alleged defective Services, errors, omissions or failure to comply with the description or quote. If the Client shall fail to comply with these provisions, the Services shall be conclusively presumed to be in accordance with the terms and conditions and free from any error or omission. For defective Services, which the Company has agreed in writing that the Client is entitled to reject, the Company's liability is limited to either (at the Company's discretion) rectifying the Services, except where the Client has acquired Services as a consumer within the meaning of the TPA or the FTA of the relevant state or territories of Australia, and is therefore also entitled to, at the consumer's discretion a refund of the purchase price of the Services.

**10. Default and Consequences of Default**

10.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at the Company's sole discretion such interest shall be compounded monthly at such a rate) after as well as before any judgement.

10.2 In the event that the Client's payment is dishonoured for any reason the Client shall be liable for any dishonour fees incurred by the Company.

10.3 If the Client defaults in payment of any invoice when due, the Client shall indemnify the Company from and against all costs and disbursements incurred by the Company in pursuing the debt including legal costs on a solicitor and own client basis and the Company collection agency costs.

10.4 Without prejudice to any other remedies the Company may have, if at any time the Client is in breach of any obligation (including those relating to payment); the Company may suspend or terminate the supply of Services to the Client and any of its other obligations under the terms and Conditions. The Company will not be liable to the Client for any loss or damage the Clients suffers because the Company has exercised its rights under this clause.

10.5 If any account remains overdue after thirty (30) days then an amount of the greater of twenty dollars (\$20.00) or ten percent (10%) of the amount over due ( up to a maximum two hundred dollars (\$200.00) shall be levied for administration fees which sum shall become immediately due and payable.

10.6 Without prejudice to the Company's other remedies at law the Company shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to the Company shall, whether or not due for payment, become immediately payable in the event that:

- (a) Any money payable to the Company becomes overdue, or in the Company's opinion the Client will be unable to meet its payments as they fall due: or
- (b) The Client 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
- (c) A receiver, Manger, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.

**11. Security and Charge**

11.1 Despite anything to the contrary contained herein or any other rights which the Company may have howsoever:

- (a) Where the Client and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being charged, both the Client and/or the Guarantor agree to mortgage and/ or charge all of their joint and/or several interest in the said land, realty or any other asset to the Company or the Company's nominee to secure all amounts and other monetary obligations payable under these terms and conditions. The Client and/ or the Guarantor acknowledge and agree that the Company (or the Company's nominee) shall be entitled to lodge where appropriate a caveat, which caveat shall be withdrawn once all payments and other monetary obligations payable here under have been met.
- (b) Should the Company elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Client and/or Guarantor shall indemnify the Company from and against all the Company's costs and disbursements including legal costs on a solicitor and own client basis.
- (c) The Client and/or the Guarantor (if any) agree to irrevocably nominate constitute and appoint the Company or the Company's nominee as the Client's and/or Guarantor's true and lawful attorney to perform all necessary acts to give effect to the provisions of this clause 11.1.



**12. Compliance with Laws**

12.1 The Client and the Company shall comply with the provisions of all statutes, regulations and by laws of government, local and other public authorities that may be applicable to the works.

12.2 The Client shall obtain (at the expense of the Client) all licenses and approvals that may be required for the works.

12.3 The Client agrees that the site will comply with any occupational health and safety laws relating to building/construction/ mining and any other relevant safety standard or legislation.

**13. Cancellation**

13.1 The Company may cancel any contract to which these terms and conditions apply or cancel delivery of Services at any time before the Services are delivered by giving written notice to the Client. On giving such notice the Company shall repay the Client any sums paid in respect of the Price. The Company shall not be liable for any loss or damage whatsoever arising from such cancellation.

13.2 In the event that the Client cancels delivery of Services the Client shall be liable for any loss incurred by the Company (including, but not limited to, any loss of profits) up to the time of cancellation.

**14. Privacy Act 1988**

14.1 The Client and/or the Guarantor/s 9 herein referred to as the Client) agree for the Company to obtain from a credit reporting agency a credit report containing personal credit information about the Client in relation to credit provided by the Company.

14.2 The Client agrees that the Company may exchange information about the Client with those credit providers either named as trade referees by the Client or named in a consumer credit report issued by a credit reporting agency for the following purposes:

- (a) To assess an application by the Client; and/or
- (b) To notify other credit providers of a default by the Client; and/or
- (c) To exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or
- (d) To assess the creditworthiness of the Client.

The Client understands that the information exchanged can include anything about the Client's creditworthiness, credit standing, credit history or credit capacity that credit providers are allowed to exchange under the Privacy Act 1988.

14.3 The Client consents to the Company being given a consumer credit report to collect overdue payment on commercial credit (section 18K(1)(h) Privacy Act 1988)

14.4 The Client agrees that personal credit information provided may be used and retained by the Company for the following purposes (and for other purposes as shall be agreed between the Client and Company or required by law from time to time):

- (a) The provision of Services; and/or
- (b) The marketing of Services by the Company, its agents or distributors; and/or
- (c) Analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Services; and/or
- (d) Processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or
- (e) Enabling the daily operation of Client's account and/or the collection of amounts outstanding in the Client's account in relation to the Services.

14.5 The information given to the credit reporting agency may include:

- (a) Personal particulars (the Client's name, sex address, previous addresses, date of birth, name of employer and drivers licence number;
- (b) Details concerning the Client's application for credit or commercial credit and the amount requested;
- (c) Advice that the Company is a current credit provider to the Client;
- (d) Advice of any overdue accounts, loan repayments, and/or any outstanding monies owing which are over due by more than sixty (60) days, and for which debt collection action has been started;
- (e) That the Client's overdue accounts, loan repayments and/or any outstanding monies are no longer overdue in respect of any default that has been listed;
- (f) Information that, in the opinion of the Company, the Client has committed a serious credit infringement (that is, fraudulently or shown an intention not to comply with the Client's credit obligations);
- (g) Advice that cheques drawn by the Client for one hundred dollars (\$100.00) or more, have been dishonoured more than once;
- (h) That credit provided to the Client by the Company has been paid or otherwise discharged.

**15. Equipment Hire**

15.1 The equipment shall at all times remain the property of the Company and is returnable on demand by the Company. In the event that the Equipment is not returned to the Company in the condition in which it was delivered. The Company retains the right to charge the Price of repair or replacement of the Equipment.

15.2 The Client shall:

- (a) Keep the equipment in their own possession and control and shall not assign the benefit of the Equipment nor be entitled to lien over the Equipment.
- (b) Not alter or make any additions to the Equipment including but without limitation altering, make any additions to, defacing or erasing any identifying mark, plate or number on or in the Equipment or in any other matter interfere with the Equipment.
- (c) Keep the Equipment, complete with all parts and accessories, clean and in good order as delivered, and shall comply with any maintenance schedule as advises by the Company to the Client.

15.3 The Client accepts full responsibility for the safekeeping of the Equipment and the Client agrees to insure or self insure, the Company's interest in the Equipment and agrees to indemnify the Company against physical loss or damage including, but not limited to, the perils of accident, fire, theft and burglary and all other usual risks and will effect adequate Public Liability Insurance covering any loss, damage or injury to property or persons arising out of the use of the Equipment. Further the Client will not use the Equipment nor permit it to be used in such a manner as would permit an insurer to decline any claim.

15.4 In the event of "wet" hire of the Equipment the operator of the Equipment remains an employee of the Company and operates the Equipment in accordance with the Client's instructions. As such the Company shall not be liable for any actions of the operator in following the Clients instructions.

#### **16. Personal Property Securities Act 2009 ("PPSA")**

16.1 In this clause:

- (a) Financing statement has the meaning given to it by the PPSA;
- (b) Financing change statement has the meaning given to it by the PPSA;
- (c) Security agreement means the security agreement under the PPSA created between the Client and the Company by these terms and conditions; and
- (d) Security interest has the meaning given to it by the PPSA.

16.2 Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that these terms and conditions:

- (a) Constitute a security agreement for the purposes of the PPSA; and
- (b) Create a security interest in :
  - (i) All Equipment previously supplied by the Company to the Client (if any);
  - (ii) All Equipment that will be supplied in the future by the Company to the Client.

16.3 The Client undertakes to:

- (a) Promptly sign any further documents and/or provide any further information ( such information to be complete , accurate and up-to date in all respects) which the Company may reasonably require too"
  - (i) Register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register.
  - (ii) Register any other document required to be registered by the PPSA; or
  - (iii) Correct a defect in a statement referred to in clause 16.3 (a) (i) or 16.3 (a) (ii);
- (b) Indemnify, and upon demand reimburse, the Company for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Equipment charged thereby;
- (c) Not register, a financing change statement in respect of a security interest without the prior written consent of the Company;
- (d) Not register, or permit to be registered, a financing statement or a financing change statement in relation to the Equipment in favour of a third party without the prior written consent of the Company; and
- (e) Immediately advise the Company of any material change in its business practices of selling Equipment which would result in a change in the Nature of proceeds derived from such sales.

16.4 The Company and the Client agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions

16.5 The Client hereby waives its rights to receive notices under sections 95, 118, 121(4), 130, 132(3) (d) and 132(4) of the PPSA.

16.6 The Client hereby waives its rights as a grantor and/or debtor under sections 142 and 143 of the PPSA.

16.7 Unless otherwise agreed to in writing by the Company, the Client waives its right to receive a verification statement in accordance with section 157 of the PPSA.

16.8 The Client shall unconditionally ratify any actions taken by the Company under clauses 16. To 16.5.

#### **17. General**

17.1 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.

17.2 These terms and conditions and any contract to which they apply shall be governed by the laws of New South Wales and are subject to the jurisdiction of the courts of New South Wales.

17.3 The Company shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by the Company of these terms and conditions.

17.4 In the event of any breach of this contract by the Company the remedies of the Client shall be limited to damages which under no circumstances shall exceed the Price of the Services.

17.5 The Client shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Client by the Company nor to withhold payment of any invoice because part of that invoice is in dispute.

17.6 The Company may license or sub-contract all or any part of its rights and obligations without the Clients consent.

17.7 The Company reserves the right to review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions. Then that change will take effect from the date on which the Company notifies the Client of such change.

17.8 Neither party shall be liable for any default to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.

17.9 The failure by the Company to enforce any provision of these terms and conditions shall not be treated as a waiver of provision, nor shall it affect the Company's right to subsequently enforce that provision.

#### **Additional Terms Applicable to Haulage Services Only**

##### **18. Definitions**

18.1 "Sub-Contractor" shall mean and include:

- (a) Railways or airways operated by the Commonwealth or any state or any other country or by any corporation; Any other person, or entity with whom the Company may arrange for the transportation or storage of any Freight the subject of the contract; or
- (b) Any person who is now or hereafter a servant, agent, employee, or sub-contractor or any of the persons referred to in clause (a) and

18.2 "Freight" shall mean all vehicles or machinery together with any accessories, containers, packaging, or pallets to be transported from one place to another by the Company.

**19. Company Not Common Carrier**

19.1 The Company is not a Common Carrier and will accept no liability as such. All Freight carried or transported and all storage and other Services are provided by the Company subject only to these conditions and the Company reserves the right to refuse the carriage or transport of articles for any person, corporation or body, and the carriage or transport of any class of articles at its discretion.

**20. Nomination of Sub-Contractor**

20.1 The Client hereby authorises the Company (if it should think fit to do so) to arrange with a Sub-Contractor for the transportation of any Freight that is the subject of this contract. Any such arrangement shall be deemed to be ratified by the Client upon delivery of the Freight to the Sub Contractor, who shall thereupon be entitled to the full benefit of these terms and conditions to the same extent as the Company. In so far as it may be necessary to ensure that such Sub-Contractor shall be so entitled the Company shall be deemed to enter into this contract for its own benefit and also as agent for the Sub- Contractor.

**21. Company's Servants or Agents**

21.1 The Client undertakes that no claim or allegation shall be made against any servant or agent of the Company which attempts to impose upon any of them any liability whatsoever in connection with the transportation of Freight and, if any such claim or allegation should nevertheless be made, to indemnify the Company and any such servant or agent against all consequences thereof.

**22. Demurrage**

22.1 The Client will be and shall remain responsible to the Company for all its proper charges incurred for any reason. A charge may be made by the Company in respect of any delay in excess of thirty (30) minutes in loading or unloading where occurring due to circumstances beyond the Company's control. Such permissible delay period shall commence upon the Company reporting for loading or unloading the Freight. Time and labour to load or unload Freight shall be at the Clients expense.

**23. Clients Responsibility**

23.1 The Client expressly warrants to the Company that the Client is either the owner or the authorised agent of the owner of any Freight that is the subject matter of this contract and by entering into this contract the Client accepts these conditions of contract for themselves as well as for all other persons on whose behalf the Client is acting.

**24. Loss Or Damage**

24.1 Subject to any statutory provisions imposing liability in respect of the loss of, or damage to, the Freight:

- (a) The Company shall not be under any liability in respect of any damage to, loss, miss-delivery, delaying delivery or not delivery of Freight (whether the Freight is or has been in possession of the Company or not) nor for any instructions, advice, information, or service given or provided to any person, whether in respect of the Freight or any other thing or matter, nor for any consequential or indirect loss, loss of market, or consequences of delay; and
- (b) The Client will indemnify the Company against all claims of any kind whatsoever, howsoever caused or arising brought by any person in connection with any matter or thing done, said or omitted by the Company in connection with the transportation of the Freight.

**25. Insurance**

25.1 The Client acknowledges that:

- (a) Freight is transported and stored at the Client's sole risk and not at the risk of the Company; and
- (b) The Company is under no obligation to arrange any insurance for the Freight and it remains the Clients responsibility to ensure that the Freight is insured adequately or at all; and
- (c) Under no circumstances will the Company be under any liability with respect to the arranging of any such insurance and no claim will be made against the Company for failure to arrange or ensure that the Freight is insured adequately or at all.

**I have read and understand the TERMS AND CONDITIONS OF TRADE of ECC HEAVY HAULAGE PTY LTD which form part of, and are intended to be read in conjunction with this Credit Account Application and agree to be bound by these conditions.**

I certify that the above information is true and correct and that I am authorised to make this application for credit. I have read and understand the TERMS AND CONDITIONS OF TRADE (attached) of ECC Heavy Haulage Pty Ltd which form part of, and are intended to be read in conjunction with this Credit Account Application and agree to be bound by these conditions. I authorise the use of my personal information as detailed in the Privacy Act therein.

***I agree that if I am a director or a shareholder (owing at least 15% of the shares) of the Client I shall be personally liable for the performance of the Client's obligations under this contract.***

<b>Client Signature</b>	<b>Client Signature</b>
<b>Name:</b>	<b>Name:</b>
<b>Position:</b>	<b>Position:</b>
<b>Date:</b>	<b>Date:</b>