



Commercial credit
account application form





Fabre Australia

ABN 56 925 295 919
4 Frazer Street, Lakemba. NSW 2195 Australia
PO Box 6212 Lakemba Distribution Centre
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**APPLICATION FOR COMMERCIAL CREDIT ACCOUNT WITH
FABRE AUSTRALIA**

I/We ¹(the Applicant) apply to Fabre Australia
(ABN 56 925 295 919) for the grant of commercial credit accommodation and submit the following
information in support of this Application:

Applicant Details:

Trading Name(s)

Company Name:

ACN/ABN

Principal Business Address

..... Post Code

Postal Address Post Code

Applicant Telephone Number.....

A/C Payable Contact²

A/C Payable Contact Direct Telephone Number

Facsimile Number

Email Address

Website Address

Applicants Business

Nature of Business

Length of Trading Business Premises Owned/Leased³

Bank Branch

Bank Contact⁴ Phone Number

¹ Insert full name of company or registered business name

² Include job title

³ Delete one

⁴ Name and telephone number

Privacy Act 1988 (Cth)/Privacy Amendment Act 1990 (Cth)/Trade References

Section 18K(1)(b) Privacy Act 1988: Fabre may seek consumer credit information

Section 18K(1)(h) Privacy Act 1988: Agreement to Fabre being given a consumer credit report to collect overdue payments on commercial credit

Section 18N(1)(b) Privacy Act 1988: Fabre can exchange information with other credit providers

In support of this Commercial Credit Account Application, the Applicant and the Guarantors jointly and severally authorise Fabre:

- to contact any or all of the referees below at any time
- and/or make enquiry about the Applicants credit rating at any authorised credit reporting agency including but not limited to Baycorp Advantage Business Services Limited and Baycorp Advantage Solutions Group
- and/or to obtain personal information about the Applicant and the Guarantors for the Applicant who are signatories hereto
- and/or to obtain a consumer credit report from any authorised credit reporting agency for the purpose of collecting overdue payments relating to commercial credit extended by Fabre to the Applicant

This is to help in establishing the Applicants credit rating and assessing this Application and the continuance of any commercial credit hereby granted. Fabre will not collect personal information unless it is necessary for these disclosed purposes.

The Applicant confirms that none of the companies or entities nominated below are divisions, subsidiaries or are in any other way owned or controlled by the Applicant. Please supply details of Companies that currently supply you with credit.

1. Name
Address.....
Contact
Tel:..... Fax:.....
2. Name
Address
Contact
Tel:..... Fax:.....
3. Name
Address
Contact
Tel: Fax:

Credit Limit

The Applicant requests that Fabre approve a Commercial Credit Account with a credit limit of \$.....⁵ per month

Credit terms requested⁶

COD 7 days from Invoice 30 days from month end

⁵ Insert limit in words and figures

⁶ Circle as applicable

Terms and Conditions

The Applicant acknowledges:

- (a) it has received a copy of Fabre’s Trading Terms and Conditions (Trading Terms) which are deemed to form part of this Application;
- (b) Fabre reserves the right to withdraw or suspend credit facilities at any time at its sole discretion
- (c) it has read and understands the nature and effect of the Trading Terms and that:
 - the undersigned persons have authority to sign on behalf of, and to bind, the Applicant;
 - the information provided in this Application, which will be relied on by Fabre in assessing the Application, is full and complete and does not contain any misstatement or misleading omission;
 - pursuant to the authorities concerning privacy contained herein, Fabre may store and maintain certain information regarding the Applicant and the Guarantors on a credit information file for 7 years from expiry or termination of any commercial credit facility hereby granted.
- (d) Trading Terms shall not be varied or waived unless in writing signed by Fabre
- (e) It is an essential term of this agreement that the Applicant will notify Fabre in writing no less than 30 days in advance of any proposed change in its Constitution or majority shareholding or key management if a company, or in its Principals if a business, partnership or other joint venture. Failure to give such notice to Fabre constitutes a material breach of this agreement entitling immediate termination of credit, and requiring all outstanding amounts be paid to Fabre immediately. Fabre warrants that, subject only to supervening legal obligations, it will observe the commercial confidentiality of any such notice where the Applicant advises it requires Fabre to observe commercial confidentiality.

**Signed by the Applicant (Corporation)⁷
in accordance with s127 (1) of
the Corporations Act 2001**

.....
Signature, print name & position

.....
Signature, print name & position

Signed by the Applicant (Partnership/Business/Sole Trader)

Signature of authorised person 1

Position held by signatory

Signature of authorised person 2

Position held by signatory

Dated this (DD MM YY)

⁷ Applicant company to affix Company Seal here only if required by the Company’s own Constitution; otherwise signatures of 2 directors, or a director & a company secretary; or for a Pty company with a sole director who is also the sole company secretary, then that director.

DEED OF GUARANTEE AND INDEMNITY

To: FABRE AUSTRALIA ABN 56 925 295 919 of 4 Frazer Street Lakemba NSW 2195 and its proprietors **Midel Pty Ltd ACN 000 809 638** and **Leam Trading Pty Ltd ACN 000 761 286** (jointly referred to herein as “**Fabre**”)

In consideration of Fabre at the request of the Guarantors granting to the Applicant a commercial credit account and accommodation and otherwise agreeing at the request of the Guarantors to continue to supply goods to the Applicant, the Guarantors jointly and severally covenant and agree with Fabre as follows:

Guarantee

- (1) To guarantee and be personally responsible for the payment to Fabre of all monies now or hereafter due by the Applicant to Fabre
- (2) This Guarantee and Indemnity is given for valuable consideration and is a continuing guarantee and indemnity that may only be terminated with the consent in writing of Fabre
- (3) Fabre may in its absolute discretion and without prejudice to this Guarantee suspend or withdraw credit facilities to the Applicant or otherwise terminate the supply of goods to the Applicant
- (4) The granting of any concession waiver or release by Fabre in favour of any one or more Guarantor/s shall not operate as a concession waiver or release in respect of any other Guarantor/s
- (5) If it is intended that this Deed of Guarantee and Indemnity should be signed by more than one Guarantor and not all those persons proposed to sign it in fact do sign, then despite that, this Guarantee and Indemnity shall remain and be enforceable only against those who have signed it
- (6) Any payment which is made to Fabre that for any reason is later made void or voidable shall be deemed to have never been made and shall therefore not discharge the Applicant’s indebtedness to Fabre nor any Guarantor’s obligation to guarantee to Fabre the receipt of those monies.

Indemnity

- (7) The Guarantors jointly and severally agree to indemnify and hold safe Fabre from all costs and losses incurred and all damages suffered, direct or indirect and however arising, out of the failure by the Applicant to honour the terms and conditions of its Commercial Credit Account with Fabre to the intent that the Guarantors will be primarily liable to Fabre in respect of all such amounts notwithstanding that Fabre shall not have first pursued the Applicant in respect of the indebtedness.

Guarantor’s to initial Guarantee and Indemnity*:

.....

.....

* All persons who sign the Guarantee must also initial this page.

Deed of Guarantee and Indemnity cont'd

Definitions

Applicant means⁸

Guarantors' means⁹

and

and.....

EXECUTED AS A DEED

On the (DD MM YY)

1. Signed sealed and delivered by

.....
Guarantor Name (print & sign)

Before me

.....
Witness Name (print and sign)

2. Signed sealed and delivered by

.....
Guarantor Name (print & sign)

Before me

.....
Witness Name (print and sign)

3. Signed sealed and delivered by

.....
Guarantor Name¹⁰ (print & sign)

Before me

.....
Witness Name (print and sign)

⁸ Insert name of Applicant from page one of Application for Commercial Credit. Ensure you use full and correct name of legal entity (Company and/or Business trading name).

⁹ Insert full names of every Guarantor and/or director (MUST be a natural person) including home address and occupation.

¹⁰ Add extra names and execution clauses as required

Fabre Australia Trading Terms

1) All accounts and/or invoices MUST be paid within the times stipulated in the agreed Credit Terms on page 2 hereof as approved by Fabre. Failure to adhere to these Credit Terms may result in the trading account being temporarily suspended.

Repeated occurrences of failure to pay within the agreed Credit Terms will result in the trading account being closed permanently and interest being charged on the outstanding amount at the rate stipulated by the Supreme Court of New South Wales. Accordingly the trading account will be charged and responsibility for all associated legal, banking and administrative costs.

2) In the situation where a cheque used to pay for goods and/or services as per the agreed Credit Terms is dishonoured, Fabre will charge the associated bank and administration fees to the trading account for which the applicant is liable to pay.

3) Credit card payments are acceptable on COD, 7-day and 30-day trading accounts if payment is made within the agreed Credit Terms. If payment is made by credit card outside the agreed terms a 5.0% service and administration fee will be charged to the trading account.

Not all credit cards are accepted by Fabre and it is the applicant's responsibility to check which cards are accepted.

4) If Fabre has agreed to grant to the Applicant a commercial credit account or other financial accommodation (COD) then all sales/purchase transactions are to be paid for and settled subject to the terms of that commercial credit account or other financial accommodation as the case may be.

5) If a Guarantor is declared bankrupt without his or her prior replacement of an acceptable alternate Guarantor approved by Fabre in writing, or if the Applicant is unable to pay monies outstanding when due, or resolves to appoint or have an administrator, liquidator, receiver or official manager appointed, then all monies outstanding whether due or not become immediately payable. In addition to such rights Fabre shall be entitled to retake possession of stock to recover the debt in whole or part.

6) The Applicant acknowledges and accepts the terms and conditions of the Fabre Australia Warranty Policy.

7) The Applicant acknowledges and accepts the terms and conditions of the Fabre Australia Return For Credit (RFC) Policy.

8) Fabre reserves the right to withdraw the Applicant's credit, withhold supply of stock or change the applicable discount structure (if any), or to suspend the Applicant's trading account at any time without prior notice, in the event Fabre believes the Applicant's trading situation has changed adversely.

9) The Applicant will accept a written statement "certificate" signed by the Chief Financial Officer or other authorised representative of Fabre as to the amount of monies owed to Fabre by the Applicant as conclusive evidence that the Applicant owes what is certified.

10) These Trading Terms do not exclude or restrict or otherwise modify the application of any Commonwealth or State or Territorial law which by law cannot be excluded, restricted or modified.

11) It is the Applicant's responsibility to check promptly and attentively that the goods supplied by Fabre is as ordered. Fabre will endeavour to supply the compatible goods for the stated application, however it is the fitter of the goods' responsibility to check and ensure suitability of the goods as supplied.

12) Fabre must be notified in writing within 24 hours of delivery of the order of any claim for loss or damage in relation to the invoiced goods. Failure to notify Fabre in writing within this period voids all claims made in respect of the relevant delivery.

13) Title of goods ordered by the Applicant does not pass to the Applicant until Fabre has received cleared funds as payment for the goods delivered (including GST). It is an essential term of trade with Fabre that even though title of the stock does not pass to the Applicant until cleared funds as full payment (including GST) is received, the risk of the goods passes with possession of the goods to the Applicant once the goods leave Fabre's premises.

14) Fabre's potential liability to the Applicant for loss or damage occasioned as a result of the breach of these Trading terms shall be limited at Fabre's discretion to one of the following:

- i) making a refund or crediting the commercial credit account or other financial accommodation of the Applicant with Fabre by an amount equal to the value of the charge related to the goods in respect of which Fabre has allegedly breached these Trading Terms or,
- ii) replacing or supplying goods again or,
- iii) repairing or having goods repaired.

15) Any purchase of goods from Fabre by a customer (whether on account, by cash sales or otherwise) is deemed as acceptance of Fabre's Trading Terms including the Return for Credit and Warranty Policy.

Fabre Australia Return For Credit (RFC) Policy

- 1) All goods to be returned for credit must be returned no later than 30 days from INVOICE date otherwise they will not be accepted for consideration for credit.
- 2) Customers must obtain a (RFC) authorisation number from Fabre prior to returning goods to Fabre's warehouse. If goods are returned without this number a 20% handling fee will be charged.
- 3) Issue of a RFC authorisation number by Fabre does not imply acceptance of goods returned for credit. Goods must conform to all parameters of this Policy before a credit may be issued.
- 4) A copy of the invoice or the invoice number with the date of purchase must be attached to the appropriate paperwork including the RFC authorisation number before the (RFC) will be processed. If this information is not supplied with the returned goods a 20% handling fee will be charged. This handling fee is separate to the handling fee in point (2) above. If both points (2) and (4) are breached then the RFC can be subject to both fees, at Fabre's sole discretion.
- 5) Any goods specially procured, ordered or supplied on indent are NON-RETURNABLE.
- 6) Any supply discrepancies must be reported to Fabre in writing within 24 hours of receipt of goods. Failure to notify Fabre in writing within this period voids all claims made in respect of the relevant delivery.
- 7) If an order is cancelled after the goods have been dispatched, the customer is liable for the freight cost (including GST) which will be charged to the Applicant's trading account.
- 8) Goods damaged in transit are not the responsibility of, nor is compensation or replacement claimable from Fabre. No good(s) orders are insured (unless otherwise requested and charged accordingly) and therefore the risk is the responsibility of the customer once the goods have left Fabre's premises.
- 9) All credits are to be returned via prepaid freight. Any goods sent back and charged to Fabre (unless prior arrangements made) will not be accepted and these goods will be returned to the customer at the customer's expense.
- 10) It is the customer's responsibility to return goods for credit within the stipulated timeframe.
- 11) No credits will be picked up by a representative of Fabre (unless prior arrangements made).
- 12) Any goods returned for credit MUST be in saleable condition and in the undamaged original packaging. It is the customer's responsibility to check sizes and application of goods (including and not limited to pistons, rings and bearings) prior to breaking open the original packaging.
- 13) Receipt by Fabre of any goods returned for credit does not imply acceptance of the aforementioned goods for credit. A credit will only be given if the (RFC) complies in all respects with the conditions of this Policy.
- 14) Refunds on purchases made with a credit card will only be posted to the original credit card used at the time of sale. It is the customer's responsibility to make sure the original card available for this purpose.
- 15) Cash sale or COD credits will receive a refund cheque only. Cash will not be given.
- 16) Any goods fitted are ineligible for credit.

17) Any goods modified, including having trademarks, logos, etc removed are ineligible for credit.

18) Subject only to legislation, any RFC based upon a claimed product failure shall be dealt with in accordance with the Fabre's Warranty Policy and procedure, and as such is not eligible for consideration under Fabre's RFC Policy.

Fabre Australia Warranty Policy

1) All new goods/parts sold by Fabre are warranted to be free from defects in workmanship and/or materials for a period of 24 months from the date of purchase irrespective of the number of kilometres travelled.

2) In the situation where the manufacturer's warranty terms are greater than the warranty period and/or terms offered by Fabre and the manufacturer accepts the warranty claim, the manufacturer's warranty conditions would override Fabre's warranty conditions.

3) The warranty offered as part of this policy is applicable to the original purchaser and all subsequent transferees within the original warranty period.

4) Goods used in competition or race applications, modified or altered from original specifications are void of any warranty.

5) Any product failures as a consequence of alteration, misapplication and/or incorrect installation are not covered by any warranty.

6) Any goods/part failure that is a result either directly or indirectly of operator abuse is void of any warranty claim or coverage. Such causes of operator abuse include but are not limited to over-speeding or over-revving, lack of or improper lubrication, incorrect start-up or shutdown procedures and improper maintenance systems and procedure.

7) As part of Fabre's Warranty Policy all necessary and relevant goods/parts must be returned for inspection. An oil sample may also be required.

8) This Warranty Policy does not cover consequential damage or losses.

9) Fabre must be notified immediately of any potential warranty claims. Unreasonably delayed claims may void Fabre's warranty, at Fabre's sole discretion.

10) As well as the tender of the goods/parts, proof of original purchase, assembly, operation procedures, maintenance procedures and failure circumstances must be supplied when completing the warranty claim form.

11) All warranty claims made under this Policy must be lodged on a Fabre warranty claim form. The warranty claim form must be completed in its entirety. Failure to supply the requested information may delay or invalidate the claim.

12) This Warranty Policy in not way is intended to restrict, modify or exclude the application of the Trade Practices Act 1974 (Cth), or any other legal right of the consumer.

13) Initialising a warranty claim by no means implies admission of liability or acceptance of the claim by Fabre

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