

NORTH FORK GROUP OPERATING AS

FORK FORCE AUSTRALIA PTY LTD

(ABN: 76 088 186 065) 41 RADIUS DRIVE LARAPINTA QLD 4078

LENCROW PTY LTD TRADING AS FORK FORCE RENTALS

(ABN: 53 631 493 019) 166 Newton Road Wetherill Park Sydney NSW 2164

RATHORN PTY LTD

(ABN: 49 003 008 660) 166 Newton Road Wetherill Park Sydney NSW 2164

APPLICATION FOR CREDIT ACCOUNT

This application for a Credit Account (the credit facility) will be considered and, if approved, be granted on the basis of and in reliance upon the representations and warranties as set out herein and of the Credit Account Terms and Conditions of Supply attached to this application.

<input type="checkbox"/> SOLE TRADER or <input type="checkbox"/> PARTNERSHIP or <input type="checkbox"/> COMPANY (Ltd or PTY LTD) (If COMPANY or TRUSTEE COMPANY you must complete DIRECTORS DEED OF GUARANTEE on Page 10. IF A SOLE TRADER you must provide your full name and D.O.B)					
ACCOUNT – LEGAL ENTITY NAME (full name under which Credit Account will be operated)			ABN		
ACCOUNT – TRADING/BUSINES NAME/S					
BUSINESS POSTAL ADDRESS				POSTCODE	
BUSINESS ADDRESS (PHYSICAL LOCATION)				HOW LONG AT THIS ADDRESS	
Phone (Business Standard)	Phone (Business Mobile)	Phone (Business Other)	Email (Business)		
PAYMENT – strictly in accordance with the attached Terms & Conditions or as may otherwise be approved by North Fork Group by notice in writing.					
Nature of Business			How long in Business		
Authorised Contact (Accounts)		Email (Accounts)	Direct Phone No. (Accounts)		
Include below: FULL NAMES, ADDRESSES & PHONE NUMBERS (as applicable) of all DIRECTORS, PARTNERS, SOLE TRADERS & TRUSTEES IF NOT SAME AS APPLICANT (include additional attachment if insufficient provision below to list all)					
FULL NAME	HOME ADDRESS		PHONE #	D.O.B	Drivers License
FULL NAME	HOME ADDRESS		PHONE #	D.O.B	Drivers License
FULL NAME	HOME ADDRESS		PHONE #	D.O.B	Drivers License

REQUIRED TRADE REFERENCES – DO NOT PROVIDE Freight, Banks, Power or Utility Companies or known non reference providers. For Credit Account applications, trade references must have been established for a minimum of 6 months.	
1. Supplier Name, Contact Name & Email Address	Phone (Business Standard)
2. Supplier Name, Contact Name & Email Address	Phone (Business Standard)
3. Supplier Name, Contact Name & Email Address	Phone (Business Standard)
Date of Application: ___ / ___ / 20 ___	

North Fork Group Credit Account Terms and Conditions of Supply to the Customer Effective 01 February 2022

“**Agreement**” shall mean the Credit Account Terms and Conditions of Supply;

“**Customer**” shall mean the person or company (including his or her assigns) whose name appears on the face of this application and will appear on contract and/or invoice as the purchaser of the Goods and/or services from NFG.

“**Goods**” shall mean the goods or services provided by North Fork Group and purchased or hired by the Customer.

“**North Fork Group**” and/or “**NFG**” shall mean Fork Force Australia Pty Ltd (ABN 76 088 186 065) and Lencrow Pty Ltd (ABN 53 631 493 019) and Rathorn Pty Ltd (ABN 49 003 008 660).

“**Order**” means an order for Goods to be supplied by NFG and may be in the form of a quotation, contract, tax invoice or other documents confirming an arrangement to supply Goods.

“**The Security Holder**” shall mean the person or company who is the legal owner of the Goods.

1. Acknowledgement

- 1.1 Subject to the provisions of this Agreement, NFG grants to the Customer credit facilities in connection with the Customer’s purchase or hire of Goods from NFG.
- 1.2 The Customer acknowledges and agrees that by executing this Agreement, the Customer has read, understood and agrees to the terms of the Agreement and that the information provided in this document is true and correct to the best of the Customer’s knowledge.
- 1.3 In applying for and accepting on-going credit from NFG, the Customer acknowledges that NFG is a subscriber to business information services (Credit Bureau) and that in accepting credit from NFG, the Customer acknowledges and accepts that the Customer’s credit history and on-going credit information will be obtained from credit providers and associations from time to time. The Customer also acknowledges and accepts that subject to written advice from NFG, payment defaults by the Customer may at the sole discretion of NFG, be listed with credit bureaus and that such default listing may impact the future provision of credit to the Customer by other credit providers. Refer to Clause 7 below for further credit information provisions.
- 1.4 The Customer agrees to notify NFG within fourteen days of any change in the information provided in this application and any change of ownership, management, control and business address.

2. Payment Terms

- 2.1 NFG will give the Customer a tax invoice and/or a contract containing the amount to be paid in respect of the Goods.

- 2.2 If in its sole discretion, NFG agree to provide a credit facility in accordance with this Agreement, then such credit facility will be offered on terms requiring payment for Goods to be made within timeframes nominated by NFG.
- 2.3 The Customer shall be liable for the whole amount of any Goods supplied in accordance with any credit facility offered by NFG. It is the responsibility of the Customer to monitor and be aware of its liability to NFG under the credit facility. NFG provides no representation or warranty that the credit facility will be limited or capped to any amount.
- 2.4 Payment of:
 - (a) thirty (30) day accounts shall be due strictly by the end of the month following the date of invoice;
 - (b) seven (7) day accounts shall be due seven days after the date of invoice;
 - (c) monthly/quarterly advance accounts are due on or before the date of the first day of supply or the delivery date on the invoice.
- 2.5 Notwithstanding any payment terms stipulated at clause 2.4 of this Agreement, any amounts owed pursuant to any credit facilities offered by NFG to the Customer shall become immediately due and payable if the Customer:
 - (a) commits an act of bankruptcy, assigns their estate for the benefit of creditors, becomes insane or dies;
 - (b) becomes subject to external administration or has an application for winding up made against it;
 - (c) has a judgment for more than \$1,000.00 entered against it and such judgment remains unpaid for a period of 14 days or more;
 - (d) any guarantor dies, becomes bankrupt, insane or expresses a desire to be released from the guarantee.
- 2.6 If any invoice or account is not paid by the Customer in full by the due date, then NFG shall be at liberty at it’s absolute discretion to:
 - (a) charge the Customer interest at the rate of 10% per annum (calculated on a daily basis) on all overdue amounts from the due date up to the date of actual payment;
 - (b) appoint a debt collector or a solicitor to commence recovery action against the Customer, in which case the Customer must pay to NFG all costs and expenses incurred by NFG

- (c) (including legal fees on a full indemnity basis) in that regard.

3. Discontinuance of Credit

3.1 NFG may in its absolute discretion withdraw, cancel or vary the terms of this credit facility at any time. If the credit facility is:

- (a) withdrawn or cancelled - then any and all amounts owed to NFG prior to the date of withdrawal or cancellation must be paid in accordance with the payment terms set out under clause 2.4 of this Agreement;
- (b) varied - then the Customer must comply with the terms of the variation for any Goods supplied on credit after the date of notice of the variation having been given by NFG.

3.2 NFG reserves the right to:

- (a) place any account on STOP SUPPLY should any account remain overdue for payment;
- (b) close any account should the Customer breach any clause of this Agreement or fail to use the account for a period of 12 months or more;
- (c) list or report any payment defaults to any credit bureau.

4. Return of Goods

4.1 To the maximum extent permitted by law, Goods can only be returned for a full or partial refund and in accordance with the terms of this Agreement.

4.2 NFG may refuse to accept the return of any Goods or issue a full or partial refund for any Goods supplied to the Customer more than 30 days after their supply.

4.3 NFG may charge a handling fee equivalent to 10% of the purchase price for any Goods returned in accordance with this clause.

4.4 In order for the Goods to be accepted by NFG for return, the Customer must:

- (a) return the Goods accompanied with their original invoice and packing slip;
- (b) return the Goods to the location where they were purchased with freight charges prepaid;
- (c) return the Goods in their original packaging and in good and merchantable condition;
- (d) the Goods must be free from defect, any Goods that are received by the Customer which are alleged to have been supplied with defects, must be returned to NFG in accordance with clause 5.1(e) of this Agreement;
- (e) pay or agree to accept a reduction of any refund by an amount equivalent to the handling fee referred to in clause 4.3 of this Agreement.

4.5 No refund or partial refund will be allowed where Goods:

- (a) are returned to NFG in a damaged condition;
- (b) are lost in transit;
- (c) have been specifically procured by NFG at the request of the Customer.

5. Delivery and Performance

5.1 If delivery is specified in the Order, then NFG will deliver the Goods to the location specified by the Customer, subject to the following:

- (a) all delivery times are subject to availability of the Goods. Whilst every effort will be made to deliver the Goods at the time specified in the Order, NFG accepts no responsibility and shall not be liable for any damages arising from any delay or failure to deliver the Goods;
- (b) risk of loss or damage to the Goods passes to the Customer as at the time that the Goods leave NFG's premises. NFG shall not be liable to the Customer for any loss or damage to the Goods arising during or after delivery or after the Goods are collected from NFG's premises;
- (c) the Customer shall be responsible for all charges for the delivery of the Goods and any further charges specified in the Order;
- (d) NFG delivery records shall be prima facie proof of delivery of the Goods of the quality and descriptions stated and the receipt thereof by the Customer;
- (e) Any defects in the Goods must be notified to NFG in writing within 48 hours of the defect becoming apparent to the Customer. Any Goods considered by the Customer to be defective must be returned by prepaid freight to NFG with the original invoice and delivery docket. NFG's decision will be final in respect of assessing whether the Goods are defective and the issuing of any refund for the Goods and for the cost of return freight charges arising from their return. The Customer acknowledges and agrees that any Goods which are alleged to be defective shall be subject to the limitations set out under clause 13 of this Agreement.

6. Retention of Title

6.1 Notwithstanding any arrangement between the Customer and NFG regarding credit, the title to and property in any Goods sold by NFG at any time shall not pass to the Customer and shall remain solely with NFG until all monies owing by the Customer to NFG have been paid in full. Pending payment of all monies due to NFG, the Customer:

- (a) shall hold the Goods as bailee only;
- (b) shall not mortgage, grant security over or pledge the Goods to any third-party;

- (c) shall not modify, alter, or attempt to modify or alter the Goods without NFG's prior written consent;
- (d) shall effect and maintain an appropriate insurance policy noting the NFG as an interested party that covers loss or damage to the Goods in an amount not less than the full new replacement cost of the Goods;
- (e) must if requested by NFG, give NFG a copy of the insurance policy or evidence of currency of the policy;
- (f) must notify NFG if:
 - i. the Goods are damaged, lost, stolen or destroyed (notwithstanding that the risk of loss or damage to the Goods shall have already passed to the Customer in accordance with clause 5.1(b) of this Agreement); or
 - ii. any event covered by any insurance policy in respect of the Goods occurs and if requested by NFG, process or assist with completing any relevant insurance claim.
- (g) the Customer acknowledges that NFG is entitled at anytime to inspect or take possession of the Goods and authorises NFG or its contractors to enter upon any property, premises, site or vehicle where the goods may be kept for the purpose of inspecting or taking possession of such Goods. The Customer shall indemnify NFG against any damages, costs, losses or expenses arising from any action taken by NFG or its contractors in accordance with this clause.

7. Disclosure of Credit Information

- 7.1 The Customer and any guarantor agree and consent that NFG may obtain and use credit information from other credit providers if NFG thinks it is relevant for assessing an application by the Customer for:
- (a) personal credit provision - information held by a credit reporting agency concerning the Customer's commercial activities or commercial credit worthiness;
 - (b) commercial credit provision - personal and/or commercial information from a credit reporting agency;
 - (c) either personal or commercial credit - information from any suppliers named in this credit application and/or any credit reporting agency which may lawfully be obtained about the Customer's credit arrangements and which can include but not be limited to credit worthiness, credit standing, credit history and credit capacity.
- 7.2 The Customer consents and agrees that NFG may contact, discuss and/or disclose the Customer's or

guarantor's credit history, credit worthiness and credit records with any:

- (a) referees or suppliers named in this credit application;
- (b) with any party named in any consumer or commercial credit report issued by a credit reporting agency;
- (c) to any credit reporting agency.

7.3 The Customer understands that any credit information obtained may be used for the following purposes:-

- (a) to assess an application by the Customer or guarantor for credit;
- (b) to notify other suppliers of a default by the Customer or guarantor;
- (c) to exchange information with other suppliers as to the status of any consumer or commercial credit where the Customer is in default with their suppliers and to assess the Customer's credit worthiness.

7.4 The Customer further consents and agrees that NFG may if it considers it relevant for the purpose of collecting overdue payments in respect of credit provided to the Customer, obtain from a credit reporting agency a credit report containing personal information about the Customer in relation to the collecting of overdue payments.

7.5 NFG hereby notifies the Customer that it may give to a credit reporting agency any personal information relating to the Customer and the credit application.

7.6 The Customer reaffirms that it is aware of and consents that NFG may at its sole discretion list any payment defaults with any credit bureau or reporting agency.

8. Warranties

8.1 Goods Warranty

- (a) If the Goods are sold subject to any express warranty offered by NFG, then such warranty shall be specified in writing on any Order and the terms of such warranty may be included in a separate written document provided by NFG.
- (b) To the extent legally permitted and subject to clause 13 of this Agreement, under no circumstances will NFG be liable to the Customer for, and the Customer is not entitled to make a warranty claim in respect of any one of the following:
 - i. damage caused to the Goods arising from the use, assembly, installation, misuse, modification or improper repair of the Goods by the Customer or any person not authorised by NFG;
 - ii. failure by the Customer to follow recommended or reasonable

- iii. any failure by the Customer to adhere to the terms of any warranty terms specified in any documents supplied with the Order;
- iv. any claim for warranty that is excluded by NFG under any of the warranty terms specified in the Order;
- v. any failure by the Customer to follow the advice of NFG for the use, maintenance or operation of the vehicle including the failure by the Customer to acquire Goods more suitable for the purpose in which they would be used;
- vi. the Customer's breach of any term of this Agreement or the terms of any warranty offered by NFG.

8.2 Customer Warranties

The Customer warrants that:

- (a) the persons signing this document have the legal right, authority and power to enter into this Agreement and to complete the transactions contemplated by this Agreement;
- (b) it has entered into this Agreement after having carefully considered and understood the terms of this Agreement and after having obtained or having had the opportunity to obtain any professional or legal advice that it may require in respect of the nature and effect of this Agreement;
- (c) All information supplied by the Customer in accordance with this Agreement is accurate, reliable, complete and up-to-date;
- (d) That any credit facility provided by NFG is to be wholly applied or utilised for business purposes.

9. Security and Charging Clause

9.1 As continuing security for the payment of any amounts owing to NFG, the Customer:

- (a) grants in favour of NFG, a security interest in all of its present and after-acquired personal property;
- (b) grants in favour of NFG a Purchase Money Security Interest (**PMSI**) over any Goods that are the subject of hire arrangements with NFG;
- (c) grants a fixed charge to NFG of the Customer's estate and interest in any real property;
- (d) consents to NFG registering any caveat over any real property of the Customer;
- (e) acknowledges that NFG has received valuable consideration for this charge;

- (f) agrees that any attachment is immediate and to the extent that the security interest relates to after-acquired personal property or future acquired real property, then the security interest shall attach on the date that the NFG has power to transfer rights in the collateral to the Customer;
- (g) acknowledges that any security interest created by this Agreement extends to any proceeds of the sale of any property charged by way of this Agreement;
- (h) agrees that if requested by NFG, the Customer shall execute any document or agreement required to give effect to the charge created by this Agreement;
- (i) shall insure and keep insured all property the subject of this charge and or any Goods the subject of hire arrangements with NFG;
- (j) the security shall be a continuing security for so long as the Customer acquires Goods from NFG and shall not be affected by any settlement of account, intervening payment or other matter whatsoever until a final discharge of this Agreement is given by NFG;

9.2 NFG may register its security interest on the Personal Property Securities Register or with any department, agency or authority as necessary to give effect to the terms of this clause. The Customer agrees do to anything that NFG requires (such as obtaining consents and signing documents) for the purpose of:

- (a) ensuring that any security interest created by this charging clause is enforceable, perfected and otherwise effective;
- (b) enabling NFG to obtain first priority (or any other priority agreed to with NFG in writing) for the purpose of securing its interest; and
- (c) enabling NFG to exercise rights in connection with that security interest.

9.3 The Customer shall be liable, on demand from NFG, to pay any cost or expense incurred by NFG for the purpose of giving effect to this clause, this includes any registration fees or legal fees incurred for the purpose of giving effect to the security and charging provisions under this Agreement.

9.4 The Customer shall not without the prior written consent of NFG:

- (a) transfer or otherwise dispose of any property the subject of this charge unless such property relates to stock of goods sold or supplied in the ordinary course of business by the Customer;
- (b) charge, secure or attempt to create a charge or mortgage over any property the subject of a charge granted under this clause in favour of any third party (other than NFG);

- (c) charge, secure or attempt to create a charge or mortgage over any Goods:
- i. where title to the Goods by the reason of this Agreement remains with NFG; or
 - ii. that are the subject of hire arrangements with NFG.
- 9.5 The rights of NFG under this Agreement are in addition to and not in substitution for NFG's rights under any other law and NFG may choose whether to exercise rights under this Agreement as it sees fit.
- 9.6 Any amounts of money payable to NFG and secured by way of this clause, shall at the election of NFG, immediately become payable on the happening of any one of the following events:
- (a) if the Customer defaults on the payment of any money as required under this Agreement;
 - (b) if any distress, execution or other process of a court is levied upon the property charged by this clause or any Goods the subject of a hire agreement with NFG;
 - (c) if the Customer ceases or threatens to cease to carry on its business;
 - (d) if the Customer becomes insolvent or is otherwise the subject of any action taken to place the Customer into administration, liquidation or receivership;
 - (e) if the Customer breaches any provision of this Agreement.
- 9.7 If any of the events stipulated in clause 9.6 of this Agreement occurs, then NFG may at its election, do any or all of the following:
- (a) in addition to the rights conveyed under clause 6.1(g) of this Agreement, NFG may enter any property, premises or vehicle for the purpose of taking possession and assuming control of any property charged by this clause;
 - (b) receive payment for any proceeds received by the Customer by way of the transfer of any property charged by this clause;
 - (c) sell, lease, licence or agree to sell, licence or lease any property charged by this clause on such terms and NFG thinks fit including whether by auction, private treaty or tender;
 - (d) demand, sue for and recover any property or proceeds charged by this clause;
 - (e) appoint a receiver or such other person as NFG sees fit for the purpose of enforcing its rights under this clause.
- 9.8 If NFG enforce any rights under this clause, then NFG shall apply any proceeds acquired (after payment of any prior encumbrances) as follows:
- (a) in payment of all charges, costs and expenses incurred or incidental to the performance of any powers or remedies provided for in this Agreement;
 - (b) in payment of any fees charged by any receiver;
 - (c) in payment of any outstanding debt or obligation owing to NFG;
 - (d) in payment of any surplus to the Customer.
- 9.9 To the extent that Chapter 4 of the PPS Law applies to any security interest granted under this Agreement, the parties agree that the following provisions of the PPSA will not apply or are waived, as the context requires:
- (a) section 95 (notice of removal of accession);
 - (b) section 96 (retention of accession);
 - (c) section 121(4) (notice to grantor);
 - (d) section 125 (obligation to dispose or retain collateral);
 - (e) section 129 (notice of purchase);
 - (f) section 130 (notice of disposal);
 - (g) section 132 (right to receive statement of account);
 - (h) section 135 (notice of retention);
 - (i) section 142 (redemption of collateral); and
 - (j) section 143 (reinstatement of security agreement).
- 9.10 The Customer waives its rights to receive a copy of any verification statement after the registration of a financing statement in respect of the security interest created by this Agreement.
- 9.11 NFG and the Customer agree not to disclose information of the kind that can be requested under section 275(1) of the PPS Law. The Customer must do everything necessary on its part to ensure that section 275(6)(a) of the PPS Law continues to apply. The Agreement in this sub-clause is made solely for the purposes of allowing NFG the benefit of section 275(6)(a) and NFG shall not be liable to pay damages or any other compensation or be subject to injunction if NFG breaches this sub-clause.
- 9.12 If NFG does not have at commencement a PPS Law registration ensuring a perfected first priority interest in any Goods supplied by way of hire or lease by NFG, then the hire period, (including any extension of the hire period or the aggregate of consecutive hire periods during which the Customer has substantially uninterrupted possession) may not despite anything else in this Agreement or any hire schedule be longer than 90 days.

10. Sub-hire

10.1 The Customer agrees that any Goods supplied by NFG which title remain the property of NFG either:

- (a) by reason of clause 6 of this Agreement; or
- (b) by reason of the terms of any hire or lease arrangement

must not be leased, hired, bailed or released for possession to any third-party unless NFG first consents in writing. Any terms of sub-lease, sub-hire, bailment or release must be in writing in a form acceptable to NFG and may not be varied without the prior written consent of NFG.

10.2 If goods are leased, hired, bailed or released for possession in accordance with clause 10.1, then the Customer must ensure that NFG is provided at all times with up-to-date information as to the location of the goods and the identity of the persons or entities exercising control over the goods.

10.3 Any agreements entered into by the Customer with third-parties in accordance with clause 10.1 of this Agreement, shall not affect the obligations that the Customer owes to NFG. The rights of NFG arising from this Agreement shall not be affected by any failure, misuse or action committed by the sub-hirer or sublessor.

10.4 The Customer when granting any sub-hire or sublease of Goods in accordance with clause 10.1 must ensure that the terms of any agreement allow for:

- (a) the Customer to have a security interest over the Goods, that is capable of being registered under the PPSR and that any such interest is enforceable, perfected and otherwise effective;
- (b) the Customer has first priority to recover the Goods (subject to any priority over the Goods that is granted to NFG);
- (c) the recognition of the rights, interest and title that NFG has over the Goods;
- (d) NFG to have a security interest over the Goods;
- (e) NFG to have the rights to enter onto any premises, property or vehicle for the purpose of recovering the Goods for any reason;
- (f) terms that would not cause the Customer to act in breach of this Agreement.

11. Default and Termination

11.1 If the Customer defaults on or breaches any term of this Agreement, then NFG shall have the right, at its absolute discretion, to:

- (a) terminate this Agreement with immediate effect;
- (b) withdraw or cancel any credit facility in accordance with clause 3 of this Agreement;

(c) issue a notice in writing on the Customer to remedy the default within 5 business days of such notice; or

(d) take any step or action contemplated in accordance with the terms of this Agreement including steps to recover the Goods from the Customer.

11.2 If the Customer receives a default notice in accordance with clause 11.1(c) of this Agreement and does not comply with such notice, then NFG may terminate this agreement with immediate effect.

11.3 Upon termination of this Agreement, the:

(a) Customer must:

- i. make payment of any amount owing to NFG in accordance with any Order or with the payment terms agreed to under this Agreement, or if overdue for payment then immediately;
- ii. deliver up to NFG any Goods in its possession which remain the property of NFG either:
 - A. by reason of clause 6 of this Agreement; or
 - B. by reason of the terms of any hire or lease arrangement.

(b) Agreement shall:

- i. be at an end as to its future operation, save and except for the enforcement of any right, claim or interest that NFG may have which arises on, before or as a result of the termination;
- ii. for the avoidance of doubt, no act of termination shall limit or prevent NFG from enforcing any right to recover the Goods, any amount owed or enforce any security interests that NFG may have as a result of this Agreement.

12. Repossession of Goods

12.1 If this Agreement is terminated, then in addition to any rights that NFG otherwise has under clauses 6.1(g) and 9.7 of this Agreement, NFG shall also be permitted to:

- (a) enter onto any premises, site, property or vehicle for the purpose of taking repossession of any Goods, in which case the Customer shall agree to grant NFG reasonable access for this purpose;
- (b) the risk in the Goods shall revert to NFG upon their return to any premises operated by NFG;
- (c) charge the Customer any cost or expense incurred in taking possession under this clause;

- (d) if the Goods are unable to be located, or if NFG is unable to take possession of the Goods for any reason, then NFG shall be entitled to recover from the Customer, the full retail value of the Goods as stipulated in any Order, notwithstanding any payments or length of time that may have accrued since the Customer took possession of the Goods.

13. Limitation of Liability

13.1 To the extent permitted by law, including the Australian Consumer Law, NFG's liability under this Agreement is limited, at NFG's election, to the cost of repair, refund or replacement of faulty Goods supplied in accordance with this Agreement. NFG shall not be liable for:

- (a) Any loss or damage of any kind caused by or resulting from any act, use of or omission of the Customer or any of its employees, contractors and agents;
- (b) Any loss of profits or anticipated loss of profits, economic loss, loss of business opportunity, loss or damage resulting from lost time, or any special, incidental or otherwise consequential loss or damage, regardless of whether NFG was notified of the potential for such loss, or the loss arises from the negligence of, breach by, or is caused by NFG or its employees, agents or contractors.

13.2 Subject to the terms of this Agreement and the Australian Consumer Law, all representations, warranties, conditions, undertakings and guarantees not expressly contained in this Agreement or in the written terms of any Order, are excluded and NFG shall not be obligated to carry out such terms.

13.3 Nothing in this Agreement excludes, restricts or modifies any warranty, right or remedy conferred on the Customer by the Australian Consumer Law or any other applicable law that cannot be excluded, restricted or modified by agreement. To the maximum extent permitted by law, the liability of NFG for the breach of a non-excludable warranty, right or remedy is limited at NFG's election to:

- (a) the replacement of Goods or the supply of equivalent Goods;
- (b) the repair of Goods;
- (c) the payment of the cost of replacing the Goods;
- (d) the payment of the cost of having Goods repaired; or
- (e) in the circumstances of a major failure, a refund of the Goods.

13.4 If NFG nominates for the Goods to be repaired, then the Customer shall take all steps necessary to deliver the Goods to NFG, comply with any reasonable direction of NFG and/or to ensure that NFG can perform the repairs by a trusted and authorised repairer.

13.5 The Customer shall only be entitled to a refund or replacement of any Goods where any fault or defect

constitutes a major failure. NFG reserves the right to inspect the Goods for the purpose of assessing whether a major failure has occurred.

14. General Conditions

14.1 No contract or agreement for the supply of Goods shall exist between the Customer and NFG except upon the terms and conditions of this Agreement unless the terms have been specifically agreed to by NFG in writing.

14.2 Any provision of this Agreement, which is found to be invalid must be read down to the minimum extent necessary to achieve validity if applicable or otherwise be severed from the Agreement without affecting the validity the remaining provisions of this Agreement.

14.3 This Customer cannot assign or otherwise transfer its rights or obligations under the Agreement without the prior written consent of NFG. NFG however may assign or transfer the Agreement by way of written notice to the Customer.

14.4 This Agreement cannot be amended or varied except in writing signed by the parties.

14.5 The failure by NFG to insist on strict performance of any part of this Agreement is not a waiver of any rights that NFG may have and no express waiver will be deemed to be a waiver of any subsequent breach of any term, warranty or condition of this Agreement.

14.6 This Agreement is governed by and must be construed in accordance with the laws of Queensland. The parties submit to the exclusive jurisdiction of Queensland in respect of all matters arising from or relating to this Agreement.

Signed by the Customer:

Authorised Signature
for and on behalf of the Customer

Authorised Signature
for and on behalf of the Customer

Print Name

Print Name

Position / Title

Position / Title

Date

Date

CREDIT APPLICATION HAS BEEN APPROVED BY:
FORK FORCE AUSTRALIA PTY LTD AND LENCROW PTY LTD AND RATHORN PTY LTD

Signature for and on behalf of NFG

Print Name

Date of Approval

GUARANTEE AND INDEMNITY

Company Applications:

THIS GUARANTEE IS GIVEN TO NORTH FORK GROUP operating as FORK FORCE AUSTRALIA PTY LTD (ABN 76 088 186 065) AND LENCROW PTY LTD (ABN 53 631 493 019) AND RATHORN PTY LTD (ABN 49 003 008 660) (collectively "NFG")

By _____ of

_____ (hereinafter "the Guarantor")

In consideration of NFG agreeing to grant credit to and to supply goods to:

Company Name: _____ ABN: _____ (hereinafter "the Customer/Guaranteed Entity")

I/We the undersigned, Guarantor/s JOINTLY AND SEVERALLY agree and guarantee to NFG as follows:

1. To guarantee to NFG the payment by the Customer of all money which the Company is or at any times becomes actually or contingently liable to pay to NFG including by way of charges, fees, interests, costs, indemnities, expenses or as a consequence of any breach or default by the Customer of any agreement with NFG.
2. The Guarantor/s waive any right to be notified by NFG of any neglect or omission by the Customer to pay for any Goods or money payable to NFG in accordance with the terms and conditions of any agreement between the Customer and NFG.
3. The Guarantor/s further irrevocably and unconditionally agree to indemnify NFG and keep NFG indemnified against any and all expense, cost, loss or damage suffered by NFG (including legal fees on a full indemnity basis) arising from or in connection with:
 - (a) any failure by the Customer to pay any money owing to NFG duly and punctually;
 - (b) any agreement with the Customer being wholly or partly void, voidable or unenforceable against the Company for any reason;
 - (c) the enforcement, or attempted enforcement of any rights under any agreement between the Company and NFG and any rights under this Guarantee; and
 - (d) any breach by me/us of this Guarantee.
4. My/Our liability under this Guarantee arises immediately on execution of this Guarantee by me/us and will be a continuing obligation for the whole of the Customer's indebtedness or liability to NFG. I/We acknowledge and agree that this Guarantee shall continue until a final release or discharge is given in writing by NFG.
5. Except for a written release or discharge given by NFG to the Customer, this continuing Guarantee shall not be affected by anything which but for this clause, may be considered to release me/us from this Guarantee or to reduce our liability, including:
 - (a) any agreement between the Customer and NFG being terminated, rescinded or amended;
 - (b) any variation, novation or alteration of any agreement between the Customer and NFG;
 - (c) any breach by NFG of the terms of any agreement with the Customer, or any act, or omission (negligent or otherwise) of NFG under any agreement with the Customer;
 - (d) any insolvency of the Guarantor/s or the winding up, liquidation, receivership or external administration of the Customer; and

- (e) any part of the agreement between the Customer and NFG being found to be void, voidable or unenforceable for any reason; and
 - (f) any grant of time or indulgence to the Customer or any failure by NFG to enforce the terms of any agreement with the Customer including any deferral of action to recover any debt owing by the Customer to NFG.
6. I/We agree to and will pay all money payable by me/us under this Guarantee on demand by NFG in immediately available funds to the account and in the manner notified from time to time by NFG to me/us. I/We acknowledge and agree that NFG shall be permitted to charge interest at the rate of 10% per annum (calculated on a daily basis) on all overdue amounts due and payable under this Guarantee from the due date up to the date of actual payment.
7. As continuing security for the payment of any amounts owing to NFG, I/we the Guarantor/s:
- (a) grant in favour of NFG, a security interest in all of my/our present and after-acquired personal property and consent to NFG registering such interest on the PPSR;
 - (b) grant a fixed charge to NFG over any estate and interest that I/we hold in any real property;
 - (c) consent to NFG registering any caveat over any real property held in my/our names;
 - (d) acknowledges that NFG has received valuable consideration for this Guarantee;
 - (e) acknowledges that any security interest created by this Guarantee extends to any proceeds of the sale of any property charged by way of this Guarantee; and
 - (f) agrees that if requested by NFG, I/we the Customer shall execute any document or agreement required to give effect to the charge created by this guarantee.
8. Should I/we default on any terms of this Guarantee or fail to make any payment in accordance with clause 6 of this Guarantee, then NFG may at its election, do any or all of the following:
- (a) NFG may enter any property, premises or vehicle owned by me/us for the purpose of taking possession and assuming control of any property charged under this Guarantee;
 - (b) receive or demand payment of any proceeds received by me/us by way of the transfer of any property charged by this clause;
 - (c) sell, lease, licence or agree to sell, licence or lease any property charged by this clause on such terms and NFG thinks fit including whether by auction, private treaty or tender; and
 - (d) demand, sue for and recover any property or proceeds charged by this clause.
9. If NFG enforce any rights under this clause, then NFG shall apply any proceeds acquired (after payment of any prior encumbrances) as follows:
- (a) in payment of all charges, costs and expenses incurred or incidental to the performance of any powers or remedies provided for in this Guarantee;
 - (b) in payment of any outstanding debt or obligation owing to NFG; and
 - (c) in payment of any surplus to me/us.
10. NFG may at any time or times at NFG's discretion and without giving any notice whatsoever to me/us suspend, withdraw or refuse further credit or supplies of Goods and or services to the Customer and subsequently resume the same without discharging or impairing my/our liability under this Guarantee and Indemnity.
11. The Guarantor/s hereby appoint as its duly constituted attorney NFG's company secretary from time to time to execute in its name and as its act and deed, any real property mortgage, bill of sale, or consent to any caveat NFG may choose to lodge against real property that the Guarantor/s may own in any Land Titles Office in any State or Territory of Australia even though the Guarantor/s may not have defaulted in carrying out its obligations hereunder.

12. It is expressly declared that notwithstanding the fact that this instrument of Guarantee and Indemnity may be intended or expressed to be executed and given by more than one person it, in fact, will be a valid and effectual instrument of Guarantee and Indemnity binding against such person or persons as shall execute the same forthwith upon their execution and shall continue to be binding as against such person or persons notwithstanding the fact that any proposed or contemplated party shall not in fact subsequently execute it.
13. The Guarantor/s agree and hereby consent to NFG obtaining from a credit reporting agency, a credit report containing personal credit information concerning myself/ourselves.
14. If any provision of this document is unenforceable in accordance with its terms, other provisions which are self-sustaining are and continue to be enforceable in accordance with their terms.
15. The laws of Queensland will govern this Guarantee and Indemnity and the Guarantor/s agree to submit all disputes arising between me/us and NFG to the Courts of Queensland.

GUARANTEE SIGNING PAGE:

EXECUTED AS A DEED in relation to this Guarantee provided to North Fork Group operating as Fork Force Australia Pty Ltd (ABN 76 088 186 065) and Lencrow Pty Ltd (ABN 53 631 493 019) and Rathorn Pty Ltd (ABN 49 003 008 660) Ltd in respect of:

(Guaranteed Entity/ Customer)

SIGNED AND DATED thisday of(year)

Signature of Guarantor 1

Signature of Witness

Print Name & Address

Print Name & Address

Signature of Guarantor 2

Signature of Witness

Print Name & Address

Print Name & Address

