

SKYREACH ACCOUNT TERMS

1. DEFINITIONS AND INTERPRETATION

1.1 **Definitions** In these Terms, unless the context or subject matter otherwise requires:

- (1) **Account Facility** means the billing arrangement between Skyreach and the Customer which subject to approval of the Application by Skyreach, will be administered in accordance with these account terms and conditions ("Account Terms");
- (2) **Application** means the application for an account/Account Facility of which these Account Terms form part made by an Applicant (as detailed in the Application);
- (3) **Customer** means the party or parties described as the Applicant in the Application;
- (4) **Personal Information** has the same meaning as under the Privacy Act 1988;
- (5) **Privacy Policy** means the privacy policy published on the Skyreach Website; and
- (6) **Skyreach** includes where relevant Skyreach Group Holdings Pty Ltd ABN 54 610 283 157 ,Skyreach Pty Ltd ABN 37 076 542 955, Skyreach (NSW) Pty Limited ABN 13 142 415 638 and Skyreach (Vic) Pty Limited ABN 97 119 453 315 and and their related bodies corporate within the meaning of the Corporations Act 2001 where the context permits, their directors, servants, agents, employees and contractors.
- (7) **Terms** means these Account Terms and any other relevant terms/conditions imposed by Skyreach in relation to the supply of goods or services (including Equipment) to the Customer;

1.2 **Interpretation** In the interpretation of these Terms, unless the context or subject matter otherwise requires:

- (1) words and expressions defined in any other applicable terms/ conditions imposed by Skyreach have the same meanings in these Terms unless otherwise defined;
- (2) a reference to a party includes that party's executors, administrators, substitutes, successors and permitted assigns;
- (3) each covenant by two or more persons as a party is made jointly by all and severally by each;
- (4) the singular includes plural and vice versa; and
- (5) time is of the essence of all the Customer's obligations to Skyreach, particularly payment of amounts owing.

2. CUSTOMER'S ACKNOWLEDGMENT

2.1 The Customer acknowledges and agrees that:

- (1) the Account Facility is a trader's facility and the Customer is a trader requiring the Account Facility predominantly for the purposes of carrying on or in connection with the carrying on or establishing of a trade, business or profession;
- (2) the Customer has read and agrees to be bound by the Terms;
- (3) the Customer consents for Skyreach to have access to, collect, store and view their Personal Information pursuant to Skyreach's Privacy Policy;
- (4) all charges are payable by the Customer at the rate notified by Skyreach but any agreement to reduced charges must be in writing and signed by an authorised officer of Skyreach;

- (5) Skyreach may terminate the Account Facility at any time without prior notice;
- (6) the full amount of all charges payable by the Customer to Skyreach will become immediately due and owing by the end of the month following the month in which the charges were first Invoiced. Except where in default - All amounts will be immediately due and payable. The Account Facility is not a credit facility;
- (7) **Set-Off** If an amount is payable by the Customer to Skyreach under these Terms or under any other terms/conditions, contract or agreement between the Customer and Skyreach, Skyreach is entitled to set off that amount against any amount payable by Skyreach to the Customer.
- (8) the Customer must pay an accounting fee equivalent to the higher of 1.5% per month.
- (9) the Account Facility is personal to the Customer and cannot be assigned or transferred to any other party without the prior written consent of Skyreach;
- (10) if the Customer is a company (other than a listed public company) the Customer must notify Skyreach of any action having the effect of altering its control whether by transfer of shares, replacement of its directors or otherwise; and
- (11) the Customer will be responsible for all costs (including legal costs calculated on a solicitor and own client basis) incurred by Skyreach relating to any default by the Customer.

3. CREDIT REPORTING

3.1 The Customer consents to Skyreach:

- (1) disclosing to a credit reporting agency certain personal information about the Customer including identity particulars, the Account Facility limit, payments which may become more than forty-five to sixty days overdue, any serious infringement of the Terms which Skyreach believes has been committed by the Customer and advice that payments are no longer overdue;
- (2) obtaining from a credit reporting agency a report containing personal credit information about the Customer and a report containing information about the Customer's commercial activities or commercial creditworthiness to enable Skyreach to assess the Application; and
- (3) giving to any guarantor under the Account Facility information including a copy of the Application and any demands for payment of overdue amounts and statements of the Account Facility.

4. PROCEDURE FOR SUBMISSION OF APPLICATION

4.1 Skyreach acknowledges that an Application submitted to and received by Skyreach by means of facsimile machine or any other electronic means is an original and complete Application by the Customer.

5. GOVERNING LAW

5.1 The laws of Queensland govern these Terms. The parties agree to submit to the non-exclusive jurisdiction of the Courts of Queensland or the Federal Court of Australia.

I,..... (PRINT FULL NAME) being a duly Authorised Person of the applicant, execute this Application and hereby accept the Hire Conditions and Account Terms without amendment.

Signature..... Title..... Date...../...../.....

SKYREACH GUARANTEE CHARGE AND INDEMNITY

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions In this Guarantee, unless the context or subject matter otherwise requires:

“**Application**” has the same meaning as in the Account Terms to which this Guarantee is attached;

“**Skyreach**” has the same meaning as in the Hire Conditions.

“**Skyreach Conditions**” means the Hire Conditions (“Conditions”) and Account Terms (“Terms”) contained in and forming part of the Application; and as amended;

“**Customer**” means the party or parties described as the Applicant in the Application and where there is more than one, will be interpreted as jointly and severally;

“**Guarantee**” means this Guarantee Charge and Indemnity;

“**Guaranteed Monies**” means all monies from time to time owing to Skyreach,

“**Guarantor**” means the party or parties referred to in the schedule appearing below.

1.2 Interpretation In the interpretation of this Guarantee, unless the context or subject matter otherwise requires:

(a) words and expressions defined in the Skyreach Conditions have the same meanings in this Guarantee unless otherwise defined;

(b) a reference to a party includes that party’s executors, administrators, substitutes, successors and permitted assigns;

(c) each covenant by two or more persons as a party is made jointly by all and severally by each;

(d) singular includes plural and vice versa.

2. GUARANTEE

The Guarantor guarantees to Skyreach the due and punctual payment by the Customer of all Guaranteed Monies from time to time owing by the Customer. Skyreach may at any time or times at its discretion and without giving any notice whatsoever to the Guarantor(s) refuse to provide further Goods/Equipment to the Customer.

3. GUARANTOR’S ACKNOWLEDGMENT

In signing this Guarantee, the Guarantor:

(a) has relied on the Guarantor’s own enquires and opinion of the Customer;

(b) accepts the risk that the Guarantor may not know everything about the Customer or transactions and dealings between Skyreach and the Customer;

(c) acknowledges that the Guarantor has had the opportunity to obtain legal advice about this Guarantee.

4. CONTINUING GUARANTEE

This Guarantee is a guarantee and indemnity for unlimited amounts and it will continue until discharged in writing by Skyreach.

5. NO RELEASE

5.1 The Guarantor’s obligations and the rights of Skyreach under this Guarantee will not be affected in any way by;

(a) giving the Customer any time, waiver, credit or other concession (either for or without consideration or by operation of law);

(b) any death or mental incapacity, insolvency, official management, receivership or other incapacity or demise on the part of the Customer;

(c) Skyreach becoming a party to or bound by any compromise, assignment of property, scheme of arrangement, composition of debts, scheme of reconstruction or other arrangement by or relating to the Customer;

(d) any partial or absolute release, discharge, abandonment, surrender, variation, transfer, exchange, renewal or modification of any rights of Skyreach against the Customer;

(e) any delay, neglect, mistake or default of Skyreach or other person;

(f) the obtaining or variation of any terms of any security;

(g) the obtaining of any judgement against the Customer;

(h) any actual or alleged set off, defence, counterclaim or other deduction against Skyreach on the part of the Customer or the Guarantor;

(i) Skyreach not requiring the Customer to first pay an amount required to be paid by the Guarantor under this Guarantee: or

(j) any other act, omission, or circumstances which might otherwise discharge, reduce, modify or affect obligations to Skyreach or Skyreach’s rights.

6. FURTHER LIABILITY

The Guarantor acknowledges that the transactions and financial arrangements between Skyreach and the Customer can be changed without notice to the Guarantor and agrees that the Guarantor’s liability under this Guarantee will change accordingly (and may increase) in such events.

7. NO COMPETITION

Until the Guarantor is entitled to a release of this Guarantee, the Guarantor will not be entitled to:

(a) be subrogated to Skyreach or claim the benefit of any security held by Skyreach; or

(b) claim or receive the benefit of any distribution to creditors of the Customer so as to diminish any payment which (but for such claim or receipt) Skyreach would be entitled to receive (even where such claim or receipt would arise in respect of a matter not connected with the Guarantor’s rights as a surety). The Guarantor will, if required by Skyreach, claim in any such distribution but any amount received by the Guarantor will be received in trust for Skyreach and paid by the Guarantor to Skyreach in reduction of the Guaranteed Monies.

8. ALLOCATION OF PAYMENTS

Skyreach may (at its discretion) allocate all monies received under this Guarantee as it sees fit (including to a suspense account on an interim basis) irrespective of the basis on which they were paid.

9. VOIDABLE PAYMENTS

If a payment or transaction affecting the Guaranteed Monies becomes void or voidable under any law relating to bankruptcy or the protection of creditors, Skyreach will immediately become entitled against the Guarantor to all rights in respect of the Guaranteed Monies as it would have had if the payment or transaction had not taken place (including the revival of this Guarantee if it has been discharged).

10. PRINCIPAL OBLIGATIONS

All the Guarantor’s obligations under this Guarantee are principal obligations and not ancillary to any obligations of the Customer or any other person.

11. INDEMNITY

If any Guaranteed Monies are wholly or partially irrecoverable by Skyreach from the Customer or at any time not immediately recoverable from the Customer with the effect that such monies are not recoverable by Skyreach from the Guarantor under this Guarantee, the Guarantor agrees (as a separate and additional obligation) to indemnify Skyreach in respect of such monies, and as a principal debtor and indemnifier to pay to Skyreach on demand a sum equal to the full amount of such monies (“Indemnity”). The terms of this Guarantee shall apply as far as possible to this Indemnity and the sums of money covered by this Indemnity shall be deemed to be part of the Guaranteed Monies.

12. COSTS AND INTEREST

The Guarantor will pay to Skyreach:

(a) the amount of any expenses and liabilities of any kind (including legal costs on a solicitor and own client basis), now or in the future incurred by Skyreach in connection with this Guarantee (including its enforcement); and

(b) interest on amounts owing under any judgement or order against the Guarantor in favour of Skyreach from the date of such judgement or order until payment at the applicable rate under the Account Facility or the rate awarded in the judgement or order (whichever is higher).

13. CHARGE AND CAVEAT

(a) The Guarantor (at the Guarantor’s expense) agrees to charge with any payment of indebtedness due to Skyreach all interest in any real property held now or in the future and agree that if demanded by Skyreach upon receiving such demand will without delay execute a mortgage or other instrument of security as required in the form prepared by Skyreach or the solicitors for Skyreach under the real property legislation of the appropriate jurisdiction.

(b) The Guarantor also agrees (at the Guarantor’s expense) to sign and deliver to Skyreach a consent to caveat or other like instrument under the real property legislation of the appropriate jurisdiction in the form prepared by Skyreach or the solicitors for Skyreach over any or all of the Guarantor’s real property.

(c) If the Guarantor fails to execute any such document referred to in this clause at the request of Skyreach within a reasonable time of the request the Guarantor hereby irrevocably by way of security appoints the Skyreach credit manager or solicitor for Skyreach to be the Guarantor’s true and lawful attorney to execute and register such documents on the Guarantor’s behalf.

EXECUTION OF GUARANTEE

In consideration of Skyreach having agreed or agreeing to hire goods/Equipment and provide services and/or give credit to the Applicant/Customer namely,

*Pty Ltd ABN _____ at my/our request and forbearing from time to time to sue the Applicant /Customer for recovery of monies give and execute this Guarantee Charge and Indemnity.

SCHEDULE			
Name of Guarantor: (FULL)	D.O.B.:	Name of Guarantor: (FULL)	D.O.B.:
Address:		Address:	
Signature:	Date: / /	Signature:	Date: / /
Witness Name:		Witness Name:	
Witness Address:		Witness Address:	
Witness Signature:	Date: / /	Witness Signature:	Date: / /

WARNING: This is a very important document. You should seek your own Legal and Financial Advice before agreeing to and executing this Guarantee Charge and Indemnity.