

All sections of the Account Application Form must be completed and clearly printed.
Please return completed form to accounts@anytimeparts.com.au

CREDIT APPLICATION FORM

Trading Name:.....

Address:
.....

Phone:Fax:..... Email:.....

State if Sole Trader I Partnership I Company:

Full name of company:

Registered office of company:

ABN:

Credit limit applied for:

Full Names and Addresses of Proprietors I Directors:

1. Name:
.....

Address:.....
Phone..... Fax.....
Email.....
...

2. Name:
.....

Address.....
Phone..... Fax.....
Email.....
...

Trade References (Not related to applicant)

1. Name:
.....

Address:.....
Phone:.....
Fax:.....

2. Name:
.....

Address:.....
..... Phone:.....
Fax:.....

All Applicants

I/We have read and agree to the terms and conditions as stated.

I/We understand that if our application for credit is approved, the terms are strictly Seven (7) days from Invoice date and that overdue accounts may be charged compound interest on any outstanding balance at the rate of 2.5 % per month from the date the service was provided until payment is received in full.

Applicants Full Name.....

Signature of Applicant:

Date:.....

Company Directors Personal Guarantee

In consideration of your entering into an agreement to supply credit, goods, services, materials and/or work from time to time to the above named applicant company ("The Company") at our request, I/We, the undersigned ("the Guarantor"), do jointly and severally guarantee as follows:

1. The Guarantor shall on demand, pay all monies due and payable to NGT Global (T/A Victory Freightlines) pursuant to such agreement which are not paid by the company within Seven (7) days after the due date for payment thereof whether demand for the same has been made by you on the company or not.
2. The Guarantor shall observe and perform on demand by you all conditions obligations and liabilities binding the company with which the company does not comply seven (7) days after the due date for observance or performance as prescribed by the agreement whether demand for such observance or performance has been made by you on the company or not.

Date:.....

Directors Name:

Signature of Director:

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Where you (the Buyer) are acquiring goods and services from us (the Supplier) as a Consumer, the Australian Consumer Law automatically provides a range of consumer guarantees, including that goods will be of acceptable quality, fit for purpose, match the description or sample, and have spare parts and repair facilities reasonably available. In addition, there is a consumer guarantee that services will be provided with due care and skill, fit for any specified

1. DEFINITIONS

In these Terms and Conditions:

Account Application Form means the Account Application and Customer Information form incorporating these Terms and Conditions.

Australian Consumer Law means the Australian Consumer Law set out in Schedule 2 of the *Competition and Consumer Act 2010* (Cth) (as amended or replaced from time to time).

Buyer means the person named below as the buyer and includes any Related Entity of the Buyer who accepts an Estimate or Quote, or whose Order is accepted by the Supplier. **Consumer** means a consumer within the meaning of section 3 of the Australian Consumer Law.

Delivery Date means the date on which the Goods are delivered, or the Services provided, to the Buyer.

Estimate means a preliminary assessment by the Supplier of the services required based on information provided by the Buyer, which may include a non-binding indication of a Purchase Price.

Goods means goods which the Supplier supplies to the Buyer in accordance with these Terms and Conditions.

Entity means any of
AnyTime Parts Pty Ltd ACN
17 Malcolm Road Maddington WA
ACN 012345678

Order means an order for Goods and/or Services given by the Buyer to the Supplier. **PPS Act** means the *Personal Property Securities Act 2009*

(Cth) and any regulation made at any time under the PPS Act (each as amended and replaced from time to time). **PPS Register** means the national online register established under the PPS Act.

Purchase Price means the tax inclusive amount the Buyer must pay to the Supplier for the Goods and/or the Services, being the Supplier's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Supplier's published price list current at the date of acceptance of the Order.

Quote means a quote for Services given by the Supplier to the Buyer, which may be in response to an Order.

Related Entity, in the case of a Buyer that is a company, means a related entity as defined in the *Corporations Act 2001* (Cth) and, in the case of a Buyer that is an individual, means a company controlled by that individual or of which that individual is a director, and each related entity as defined in the *Corporations Act 2001* (Cth) of the companies.

Services means the services that the Supplier supplies to the Buyer in accordance with these Terms and Conditions.

Specifications means the specifications of the Goods or Services as described in the Estimate or Quote (if accepted by the Buyer) or the Order (if accepted by the Supplier).

Supplier means the AnyTime Parts Entity that is supplying the relevant Goods and/or Services to the Buyer.

Terms and Conditions means the terms and conditions of sale and supply set out in this document and

includes any additional terms and conditions agreed in writing between the Supplier and the Buyer.

Terms used in these Terms and Conditions which are defined in the PPS Act have the same meaning given to them in the PPS Act.

2. ACCEPTANCE OF TERMS AND CONDITIONS

2.1. A binding contract is formed between the Buyer and the Supplier when the Buyer signs a copy of these Terms and Conditions, and/or when the Buyer places an Order, accepts an Estimate or Quote or otherwise authorizes the Supplier to supply Goods or Services. The contract consists of: (a) the Account Application Form; (b) these Terms and Conditions; (c) the Order, Estimate, Quote or Specifications; and (d) any other terms the Buyer and Supplier agree in writing, and in the event of an inconsistency between the terms of the above documents, the order of precedence is as set out above. There is only a contract to supply specified or Goods if the Supplier agrees to provide those Goods in accordance with condition 3.1.

2.2. Where the Buyer places an Order for Goods or Services which contains terms and conditions inconsistent with these Terms and Conditions, the Buyer's terms and conditions are excluded, and these Terms and Conditions apply to the Order.

3. ORDERS, ESTIMATES, QUOTES AND SPECIFICATIONS

3.1. Any Order submitted by the Buyer must be accepted in writing by the Supplier's authorised representative before it will bind the Supplier. Each Order accepted by the Supplier will be deemed to incorporate these Terms and Conditions.

3.2. The Buyer must verify the accuracy of any Order

(including any applicable Specification) submitted by the Buyer to the Supplier. The Buyer must confirm any Estimate or Quote provided by the Supplier is acceptable to the Buyer prior to accepting the Estimate or Quote.

3.3. The Supplier may make any changes to a Specification which are required to conform with any applicable safety, legal or other statutory requirements. The Supplier may make any changes to a Specification which do not materially adversely affect the quality or performance of the relevant Goods or Services, by giving reasonable prior notice to the Buyer. If the Buyer does not agree to the change, it may cancel the Order, Estimate or Quote. Condition 5 below relating to cancellations will apply to any costs, losses, charges and expenses incurred by the Supplier up to the date of cancellation.

3.4. If any process is to be applied to the Goods by the Supplier in accordance with the Specifications provided by the Buyer, the Buyer indemnifies and must pay to the Supplier on demand the amount of all losses, damages, costs and expenses incurred by the Supplier in connection with any claim for infringement of any intellectual property rights of any other person which arises from the Supplier's use of the Specifications provided by the Buyer in connection with the Goods.

4. PRICE AND PAYMENT

4.1. The Supplier may require the Buyer to pay a deposit of not more than 10% of the Purchase Price before commencing the Services or supplying the Goods. A deposit is non-refundable, except where the Buyer is entitled to a refund under the Australian Consumer Law, or where the Buyer terminates the

agreement as a result of a breach by the Supplier. The Supplier's express or implied approval for extending credit to the Buyer may be withdrawn at any time.

- 4.2 Subject to condition 4.3 and 4.4, the Buyer agrees to pay the Supplier the Purchase Price, as invoiced by the Supplier to the Buyer, either: (a) on or before the Delivery Date; or (b) within 30 days of the end of the month in which the Goods or Services are delivered or provided, as described in the Order, Estimate or Quote.
3. Any agreement by the Supplier to supply Goods or Services on credit terms may be cancelled or withdrawn without notice if any account is overdue at the absolute discretion of the Supplier.
4. If the Supplier has agreed to payment terms set out in condition 5.2, or otherwise to supply Goods or Services on credit terms, and the Supplier: (a) has reasonable grounds to believe that the Buyer may fail to pay an invoice within the period provided; or (b) has not otherwise been provided with adequate assurance of payment within 14 days of written request, then the Supplier may require the Buyer to pay the Purchase Price before the Delivery Date and the Supplier is not required to deliver the Goods until such time as the Purchase Price is received or adequate assurance of payment is provided to the Supplier's reasonable satisfaction.
5. The Supplier reserves the right to reasonably increase the Purchase Price to reflect any increase in the cost to the Supplier of supplying the Goods and/or Services due to: (a) any factor beyond the Supplier's reasonable control; or (b) any change in delivery dates, quantities or specifications for Goods and/or Services which the Buyer requests by notice in writing; or (c) any delay caused by the Buyer's instructions or failure to give the Supplier adequate information or instructions. Where the Supplier

proposes to increase the Purchase Price, the Supplier will provide reasonable prior notice to the Buyer. If the Buyer does not agree to the change in the Purchase Price, it may cancel the Order, Estimate or Quote. Condition 5 below relating to cancellations will apply to any costs, losses, charges and expenses incurred by the Supplier up to the date of cancellation.

6. The Supplier has absolute discretion as to the manner in which it applies money it receives from the Buyer (including any Amount Overdue under condition 13).

5. CANCELLATIONS AND DEFERRALS

5.1. When an Order is accepted by the Supplier, or an Estimate or Quote is accepted by the Buyer, the Buyer is bound by the Order, Estimate or Quote. If the Buyer cancels or defers the Order, Estimate or Quote, the Buyer will, at the Supplier's discretion, pay all reasonable costs, losses, charges and expenses incurred by the Supplier associated with any cancellation or deferral of the Order, Estimate or Quote by the Buyer. Following cancellation or deferral, the Supplier will take reasonable steps to cease incurring or otherwise minimize further costs, losses, charges or expenses associated with the cancellation or deferral.

- 5.2. The Supplier will provide the Buyer with an invoice setting out the costs incurred by the Supplier associated with the cancellation or deferral of the Order, Estimate or Quote by the Buyer and the Buyer will pay the amount set out in the invoice within 7 days of the date of an invoice from the Supplier.

6. DELIVERY

- 6.1. The Buyer will be responsible for the cost of any delivery to the Buyer's premises.

7. TITLE

- 7.1. The Buyer agrees that title to Goods will not pass to the Buyer until the Purchase Price and all other amounts payable to the Supplier have been paid in full.
- 7.2. Until title to Goods has passed to the Buyer in accordance with this condition, if the Buyer has taken delivery of the Goods, the Buyer holds the Goods as fiduciary bailee of the Supplier and the Buyer agrees to store the Goods separately so that the Goods are identifiable as the Supplier's property. The Buyer has the right to sell the Goods in the ordinary course of trade if the Buyer accounts to the Supplier for all payments, including payments by third parties, in accordance with the Buyer's fiduciary relationship.
- 7.3. The risk of loss or damage to the Goods passes to the Buyer on the Delivery Date.

8. ACCEPTANCE

- 8.1. This condition 8 does not apply where the Buyer is acquiring goods or services as a Consumer. Nothing in this condition 8 limits any rights or remedies the Buyer may have under the Australian Consumer Law in circumstances where the Buyer acquires goods or services from the Supplier as a Consumer.
- 8.2. Subject to condition 8.1, the Buyer must examine the Goods and unless the Buyer gives written notice to the Supplier of any defects in the Goods or their failure to correspond with the Specifications within 7 days of the Delivery Date, the Buyer is deemed to have accepted the Goods as being of merchantable quality, corresponding with the Specifications and free of defects.

9. EXCUSABLE DELAYS

- 9.1. A party is not liable for any delay in, or failure to comply with, these Terms and Conditions where the failure was due to any cause beyond that party's reasonable control (such as forces of nature, industrial action and action or inaction by a government agency).

10. EXCLUSIONS AND LIMITATIONS

- 10.1 To the extent that the Buyer acquires goods or services from the Supplier as a Consumer, the Buyer may have certain rights and remedies (including, without limitation, consumer guarantee rights) under the Australian Consumer Law that cannot be excluded, restricted or modified by agreement. Nothing in these Terms and Conditions operates to exclude, restrict or modify the application of any provision, condition or warranty, the exercise of any right or remedy, or the imposition of any liability, implied or conferred under the Australian Consumer Law or any other statute, where to do so would contravene that statute, or cause any part of these Terms and Conditions to be void (**Non-excludable Consumer Obligations**).

- 10.2 Except in relation to Non-excludable Consumer Obligations, and otherwise to the extent permitted by law, all conditions, warranties, guarantees, rights, remedies, liabilities, or other terms implied or conferred by statute, custom or the common law that impose any liability or obligation on the Supplier are excluded from these Terms and Conditions. Except in relation to Non-excludable

Consumer Obligations, and subject to condition 10.2, to the extent permitted by law, the Supplier will have no liability to the Buyer for any: (a) loss, harm, damage, cost or expense (including legal fees), except to the extent that any loss, harm, damage, cost or expense was caused or contributed to by the Supplier; or (b) any special, indirect or consequential loss or damage (including, without limitation, economic loss, loss of contract, loss of profit or revenue, loss of opportunity, loss of production, production stoppage or loss of data), arising directly or indirectly under or in connection with the supply of the Goods, whether by way of indemnity, statute, in tort (for negligence or otherwise), or on any other basis in law or equity.

1. In relation to Non-excludable Consumer Obligations, except where the Supplier is supplying Goods or Services of a kind ordinarily acquired for personal, domestic or household use or consumption to the Buyer (in respect of which the Supplier's liability is not so limited under these Terms and Conditions), the Supplier's liability to the Buyer for a failure to comply with any Non-excludable Consumer Obligation (other than a guarantee as to title, encumbrances or quiet possession) is limited to:
 - (a) in the case of Services, the cost of supplying the Services again or payment of the cost of having the Services supplied again; and
 - (b) in the case of Goods, the cost of replacing the Goods, supplying equivalent Goods or having the Goods repaired, or payment of the cost of replacing the Goods, supplying equivalent Goods or having the Goods repaired, as permitted under the Australian Consumer Law.

11.TERMINATION

11.1. If:

- (a) the Buyer materially breaches any of these Terms and Conditions and the breach cannot be remedied within a reasonable amount of time; or
- (b) the Buyer ceases to carry on a business; or
- (c) the Buyer is unable to pay its debts as they become due, is presented with a winding-up petition or if any step is taken to appoint a receiver, receiver and manager, a trustee in bankruptcy, a provisional liquidator, a liquidator, or an administrator to the Buyer, its assets, operations or business; or
- (d) the Supplier believes that one of the events stated in condition 11.1-11.1 has occurred or there is a material risk that one of those events will occur, then subject to Part 5 of the *Corporations Act 2001* (Cth), all amounts owed by the Buyer to the Supplier will become immediately due and payable and the Supplier may:
 - (e) terminate this agreement and any agreement to supply under these Terms and Conditions (which if as a result of an event in condition 11.1(a), may be terminated by at least 7 days written notice, or in any other event, immediately by written notice);
 - (f) suspend any further supply of Goods or Services;
 - (g) cancel any discounts provided to the Buyer for early payment;
 - (h) recover and resell any Goods in which title remains with the Supplier; and/or
 - (i) set-off any amount owed by the Buyer against any

amount owing to the Supplier.

11.2. The Buyer may terminate this agreement by giving 7 days written notice to the Supplier if the Supplier materially breaches any of these Terms and Conditions and the breach cannot be remedied within a reasonable amount of time. In the event of termination pursuant to this clause, then subject to Part 5 of the *Corporations Act 2001* (Cth), all amounts owed by the Buyer to the Supplier will become immediately due and payable and the Supplier may recover and resell any Goods in which title remains with the Supplier.

11.3. Termination of this agreement or suspension of the supply of Goods or Services does not affect any accrued rights or remedies of the Supplier.

12. FAILURE TO PAY

12.1. If the Buyer fails to pay any amount under this agreement on the day it is due (including any amounts which become immediately due and payable under condition 11.1) (**Amount Overdue**):

(a) the Buyer will pay interest on the Amount Overdue at the rate fixed from time to time under the *Penalty Interest Rates Act 1983* (Vic) for the period from the day the amount fell due until the date of payment.

(b) the Buyer will pay all of the Supplier's reasonable costs of recovering payment of the Amount Overdue as invoiced by the Supplier to the Buyer; and

(c) the Supplier may appropriate any payment made by the Buyer on any other account in payment of the Amount Overdue.

12.2. The Buyer agrees that the Supplier has a security interest over all of the Buyer's property in its possession until the Amount Overdue and all other amounts due have been paid in full.

13. INTELLECTUAL PROPERTY

13.1. All patents, trademarks, copyrights, designs, know-how, trade secrets, improvements and any other intellectual property (**Intellectual Property**) in the Goods and Services remain the sole property of the Supplier at all times and the Buyer agrees that it will not infringe any of the Supplier's Intellectual Property rights.

13.2. All drawings, technical specifications and Intellectual Property supplied or made available to the Buyer by the Supplier are subject to copyright and strictly confidential. The Buyer must not:

(a) communicate any details of any drawings or technical specifications to any third party without the Supplier's prior written consent; or

(b) make any copies of or use the drawings or technical specifications for any purpose other than expressly authorised in writing.

14. TAXES

14.1. In this condition 14, a word or expression defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) has the meaning given to it in that act.

14.2. If a party makes a supply under or in connection with this agreement in respect of which GST is payable, the consideration for the supply but for the application of this condition 14.2 (GST exclusive consideration) is increased by an amount equal to the GST exclusive consideration multiplied by the rate of GST prevailing at the time the supply is made.

14.3. If a party must reimburse or indemnify another party for a loss, cost or expense, the amount to be reimbursed or indemnified is first reduced by any input tax credit the other party is entitled to for the loss, cost or expense, and then increased in accordance with condition 14.2.

14.4. Any consideration to be paid or provided for a supply made under or in connection with this agreement, unless specifically described in this agreement as GST inclusive, does not include an amount on account of GST.

15.PRIVACY

15.1. The parties agree to be bound by all applicable Australian privacy legislation. The Buyer

consents to the Supplier's use and disclosure of personal information of the Buyer or any of the Buyer's directors, officers, principal, guarantors, employees or agents for the purposes of obtaining and/or maintaining a commercial and/or consumer credit report and for registering and amending financing statements under the PPS Act.

16.PPS ACT

16.1. These Terms and Conditions constitute a security agreement.

16.2. The Buyer grants to the Supplier a security interest in the Goods and their proceeds, as security for payment of the Purchase Price and all other amounts payable by the Buyer to the Supplier and for the Buyer's performance of its other obligations to the Supplier.

16.3. The Buyer agrees: (a) at the Supplier's request, to promptly do all things (including signing any documents) and provide all assistance and information necessary to ensure that the Supplier has a perfected first ranking security interest in all Goods (and the proceeds of those Goods) at the Buyer's cost; and (b) that the Supplier may register a financing statement or financing change statement at the Buyer's cost and do anything else required to perfect its security interest in the security interest granted under these Terms and Conditions.

16.4. The Buyer waives its right to receive notice from the Supplier of any verification statement under section 157 of the PPS Act.

16.5. The following provisions of the PPS Act do not apply: section 95 (notice of removal of accession); subsection 121(4) (enforcement of liquid assets); section 125 (obligation

to dispose of or retain collateral); section 130 (notice of disposal); paragraph 132(3)(d) (contents of statement of account); subsection 132(4) (statement of account if no disposal); section 135 (notice of retention); section 142 (redemption of collateral); and section 143 (reinstatement of security agreement).

16.6. To the extent permitted by law, the Buyer will indemnify the Supplier on demand, for all costs and expenses incurred in connection with: (a) registering or maintaining a financing statement or financing change statement relating to any security interest that is created or provided for by these Terms and Conditions; and (b) enforcing these Terms and Conditions, including any security interest that is created or provided for by these Terms and Conditions.

16.7. The Supplier reserves all rights and powers it may have in addition to those conferred under the PPS Act.

16.8. The Buyer must not: (a) create, or permit to be created, any security interest over, or in respect of its rights in, the Goods including any replacement part or other item that is incorporated into or attached to any Goods

(other than that created under these Terms and Conditions and in all its assets in favour of a bank or similar financial institution); or (b) change any of its details as set out in the Account Application Form without notifying the Supplier at least 10 business days prior to doing so.

16.9. The Buyer represents and warrants to the Supplier that: (a) all information in the Account Application Form is true, correct and complete; and (b) the Goods are not purchased for personal, domestic or household purposes.

16.12. The Supplier is irrevocably authorised to enter any premises where the Goods are kept, and to use the name of the Buyer and to act on its behalf, if necessary, to

16.10. The Buyer repeats each representation and warranty in condition 16.9 each time the Supplier supplies Goods to the Buyer, with reference to the facts and circumstances at the time such Goods are supplied.

16.11. Despite condition 16.8, if the Buyer permits a security interest to be registered over the Goods (other than an all asset security interest in favour of a bank or financial institution), the Buyer must do, at its own expense, everything reasonably necessary to remove the security interest from the PPS Register.

recover possession of the Goods and seize the Goods in accordance with the PPSA without liability for trespass or any resulting damage.

17. GENERAL

17.1. The Supplier may sub-contract the supply or delivery of the Goods and/or the carrying out of the.

17.2. No waiver by the Supplier of any breach of these Terms and Conditions by the Buyer will be considered as a waiver of any subsequent breach of the same or any other provision. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.

17.3. A term or part of a term of this agreement that is illegal or unenforceable may be severed from these Terms and Conditions and the remaining terms or parts of the terms of these Terms and Conditions continue in force.

17.4. Neither party may assign these Terms and Conditions, or any rights

under these Terms and Conditions, without the prior written consent of the other party, such consent not to be unreasonably withheld.

17.5. These Terms and Conditions and the other documents referred to in them constitute the entire agreement between the parties as to their subject matter.

17.6. These Terms and Conditions are governed by the law applicable in Western Australia and each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of Western Australia.

Terms & Conditions of Sale and Supply

I/we agree to be bound solely by these Terms and Conditions, and I/we further agree that any terms and conditions of purchase that may be incorporated in any Order, acceptance of Estimate or Quote, or any other document delivered by me/us, will have no legal effect. I/we warrant that I/we have all necessary approvals and authorizations to execute these Terms and Conditions for and on behalf of the Buyer.

Declaration	
Company Name:	
ABN:	
Full Name:	
Position:	
Signature:	
Date:	