

# ARCHICLAD PTY LTD

## PLASTERBOARD & FIBRE CEMENT

I would like my account to be opened at the following store:

Please tick the appropriate selection box.

**Archiclad – Thomastown:**

52 Keon Parade

Thomastown VIC 3074

Phone: (03) 9460 2233 Fax: (03) 9460 2199

Email: [accounts@archiclad.com.au](mailto:accounts@archiclad.com.au)

**Archiclad – Lynbrook:**

5 Chapel Street

Lynbrook VIC 3975

Phone: (03) 9799 8111 Fax: (03) 9799 8644

Email: [accounts@archiclad.com.au](mailto:accounts@archiclad.com.au)

## CONFIDENTIAL CREDIT APPLICATION FORM

### Completing and Submitting this Document

For your application to be processed, ensure you have completed and signed both parts of this document: the **Confidential Credit Application Form** and the **Personal Guarantee and Indemnity Agreement**.

**Return this document (fully completed, signed and witnessed) to Archiclad Pty Limited ABN 82 100 917 191 at 52 Keon Parade, Thomastown VIC 3074 or Archiclad Building Products Pty Limited ABN 90 143 831 038 at 5 Chapel Street, Lynbrook VIC 3975.**

# CONFIDENTIAL CREDIT APPLICATION



James Hardie  
A smarter way to build



Boral  
Plasterboard



# ARCHICLAD

PLASTERBOARD & FIBRE CEMENT

## Completing and Submitting this Document

Thank you for applying for credit facilities with Archiclad Pty Limited ABN 82 100 917 191 of 52 Keon Parade, Thomastown VIC 3074 or Archiclad Building Products Pty Limited ABN 90 143 831 038 of 5 Chapel Street, Lynbrook VIC 3975 or Archiclad Superior Linings Pty Limited ABN 51 144 795 675 of 36 Leather Street, Breakwater VIC 3219. For your application to be processed, it is necessary to fully complete and sign both parts of this document: the Confidential Credit Application Form and the Personal Guarantee and Indemnity Agreement.

Return this document (fully completed, signed and witnessed) to Archiclad Pty Limited at Thomastown or Archiclad Building Products Pty Limited at Lynbrook or Archiclad Superior Linings Pty Limited at Geelong.

Application Date \_\_\_\_\_

Sales Representative \_\_\_\_\_  
Branch \_\_\_\_\_ Phone No \_\_\_\_\_

## Section 1 - All Applicants - Must complete this Section in full

Enter all details relevant to your Business.

Business Operates as  Pty Ltd/Ltd Company  Trustee  Sole Trader  Partnership

Business/Company Name \_\_\_\_\_ ABN/ACN \_\_\_\_\_

Trading Name \_\_\_\_\_

Trust Name \_\_\_\_\_ ABN \_\_\_\_\_

Business/Street Address \_\_\_\_\_

Postal Address \_\_\_\_\_

Ph. Business ( ) \_\_\_\_\_ After Hours ( ) \_\_\_\_\_ Mobile \_\_\_\_\_

Fax \_\_\_\_\_ Email \_\_\_\_\_

Year Business Commenced \_\_\_\_\_ Nature of Business \_\_\_\_\_

Bank Name \_\_\_\_\_ BSB No \_\_\_\_\_ Account No \_\_\_\_\_

Contracting/Building Licence No \_\_\_\_\_

Credit Amounts Required Enter an estimated credit amount required per month: \$ \_\_\_\_\_

## Section 2 - Companies, Sole Trader and Business Partnerships—Must complete this section in full.

Enter all details for all Directors, Sole Traders and Business Partners.

(1) Full Name _____	(3) Full Name _____
DOB / / Drivers Licence No _____	DOB / / Drivers Licence No _____
Residential Address _____	Residential Address _____
Postcode _____	Postcode _____
Residence: <input type="checkbox"/> Owned <input type="checkbox"/> Rented	Residence: <input type="checkbox"/> Owned <input type="checkbox"/> Rented
(2) Full Name _____	(4) Full Name _____
DOB / / Drivers Licence No _____	DOB / / Drivers Licence No _____
Residential Address _____	Residential Address _____
Postcode _____	Postcode _____
Residence: <input type="checkbox"/> Owned <input type="checkbox"/> Rented	Residence: <input type="checkbox"/> Owned <input type="checkbox"/> Rented



# CONFIDENTIAL CREDIT APPLICATION FORM

(continued)

## Section 3 - Spouses of Directors, Sole Traders and Business Partners—Must complete this section in full

Enter all details for Spouses of all Directors, Sole Traders and Business Partners.

(1) Spouse Full Name	<input type="text"/>	(3) Spouse Full Name	<input type="text"/>
DOB	<input type="text"/> / <input type="text"/> / <input type="text"/>	DOB	<input type="text"/> / <input type="text"/> / <input type="text"/>
Drivers Licence No	<input type="text"/>	Drivers Licence No	<input type="text"/>
Residential Address	<input type="text"/>	Residential Address	<input type="text"/>
	Postcode <input type="text"/>		Postcode <input type="text"/>

(2) Spouse Full Name	<input type="text"/>	(4) Spouse Full Name	<input type="text"/>
DOB	<input type="text"/> / <input type="text"/> / <input type="text"/>	DOB	<input type="text"/> / <input type="text"/> / <input type="text"/>
Drivers Licence No	<input type="text"/>	Drivers Licence No	<input type="text"/>
Residential Address	<input type="text"/>	Residential Address	<input type="text"/>
	Postcode <input type="text"/>		Postcode <input type="text"/>

## Section 4 - All Applicants - Must complete this Section.

Enter Trade References - Major Suppliers only.

SUPPLIER NAME	BUSINESS LOCATION	CONTACT PHONE NO
1.		
2.		
3.		

## Section 5 - All Applicants - Must complete this Section in full.

### History of Solvency

Has the Applicant or anyone associated with the Applicant been:

- A. Bankrupt or used Part X of the Bankruptcy Act? YES/NO  
 B. Involved with the management or control of a business which has been wound up, had receivers appointed or entered into a scheme for the benefit of creditors? YES/NO

If yes, details: \_\_\_\_\_  
 \_\_\_\_\_

## Section 6 - All Applicants - Must complete this Section in full.

### Financial Details

Are business premises owned or leased?  Owned  Leased

If owned, are premises subject to mortgage or charge? \_\_\_\_\_

Is there any other charge or mortgage on the business assets? YES/NO

If yes, please provide details: \_\_\_\_\_

Does any financial institution, company or person hold personal guarantees or other form of security from you personally, your spouse or your company? YES/NO

If yes, please provide details: \_\_\_\_\_

Do you currently trade with any other Plasterboard Centres? YES/NO

If yes, which one(s): \_\_\_\_\_

# CREDIT ACCOUNT – Terms & Conditions of Trade

## 1. Definitions

"Archiclad" means Archiclad Building Products Pty Ltd, its successors and assigns or any person acting on behalf of and with the authority of Archiclad Building Products Pty Ltd.  
"Customer" means the person/s buying the Goods as specified in any invoice, document or order, and if there is more than one Customer is a reference to each Customer jointly and severally.  
"Goods" means all Goods or Services supplied by Archiclad to the Customer at the Customer's request from time to time (where the context so permits the terms 'Goods' or 'Services' shall be interchangeable for the other).  
"Price" means the Price payable for the Goods as agreed between Archiclad and the Customer in accordance with clause 4 below.

## 2. Acceptance

The Customer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Customer places an order for Goods, or accepts Delivery.  
These terms and conditions may only be amended with Archiclad's consent in writing and shall prevail to the extent of any inconsistency with any other document or agreement between the Customer and Archiclad.  
The Customer acknowledges and accepts that the supply of Goods for accepted orders may be subject to availability and if, for any reason, Goods are not or cease to be available, Archiclad reserves the right to vary the Price with alternative Goods as per clause 4.2. Archiclad also reserves the right to halt all the supply of the Goods until such time as Archiclad and the Customer agree to such changes.  
These terms and conditions may be meant to be read in conjunction with Archiclad's Hire Form, and:

- where the context so permits, the terms 'Goods' or 'Services' shall include any supply of Equipment, as defined therein; and
- if there are any inconsistencies between the two documents then the terms and conditions contained therein shall prevail.

## 3. Change in Control

The Customer shall give Archiclad not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer and/or any other change in the Customer's details (including but not limited to, changes in the Customer's name, address, contact phone or fax number/s, or business practice). The Customer shall be liable for any loss incurred by Archiclad as a result of the Customer's failure to comply with this clause.

## 4. Price and Payment

At Archiclad's sole discretion the Price shall be either:  
(a) as indicated on any invoice provided by Archiclad to the Customer; or  
(b) Archiclad's quoted price (subject to clause 4.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.  
Archiclad reserves the right to change the Price:  
(a) if a variation to the Goods which are to be supplied is requested; or  
(b) in the event of increases to Archiclad in the cost of labour or materials, or fluctuations in currency exchange rates, which are beyond Archiclad's control.  
At Archiclad's sole discretion, a non-refundable deposit may be required.  
Time for payment for the Goods being of the essence, the Price will be payable by the Customer on the date/s determined by Archiclad, which may be:  
(a) before Delivery;  
(b) by way of instalments/progress payments in accordance with Archiclad's payment schedule;  
(c) the date specified on any invoice or other form as being the date for payment; or  
(d) failing any notice to the contrary, the date which is thirty (30) days following the end of the month in which the invoice/s and/or statement is posted to the Customer's address or address for notices.  
Payment may be made by cash, cheque, electronic/on-line banking, credit card – excluding Diners (plus a surcharge of up to three percent (3%) of the Price), or by any other method as agreed to between the Customer and Archiclad.  
Unless otherwise stated the Price does not include GST. In addition to the Price the Customer must pay to Archiclad an amount equal to any GST Archiclad must pay for any supply by Archiclad under this or any other agreement for the sale of the Goods. The Customer must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Customer pays the Price. In addition the Customer must pay any other taxes and duties (including, but not limited to, stamp duty) that may be applicable in addition to the Price except where they are expressly included in the Price.  
Receipt by Archiclad of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised, and until then Archiclad's rights and ownership in relation to the Goods, and this agreement, shall continue.

## 5. Delivery

Delivery of the Goods ("Delivery") is taken to occur at the time that:  
(a) the Customer or the Customer's nominated carrier takes possession of the Goods at Archiclad's address; or  
(b) Archiclad (or Archiclad's nominated carrier) delivers the Goods to the Customer's nominated address even if the Customer is not present at the address.  
At Archiclad's sole discretion, the cost of Delivery is in addition to the Price.  
The Customer must take Delivery by receipt or collection of the Goods whenever they are tendered for Delivery. In the event that the Customer is unable to take Delivery as arranged then Archiclad shall be entitled to charge a reasonable fee for redelivery and/or storage.  
Archiclad may deliver the Goods in separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.  
The Customer shall take delivery of the Goods tendered notwithstanding that the quantity so delivered shall be either greater or lesser than the quantity purchased provided that:  
(a) such discrepancy in quantity shall not exceed five percent (5%); and  
(b) the Price shall be adjusted pro rata to the discrepancy.  
Any time or date given by Archiclad to the Customer is an estimate only. The Customer must still accept Delivery even if late and Archiclad will not be liable for any loss or damage incurred by the Customer as a result of the Delivery being late.

## 6. Access

The Customer shall ensure that Archiclad has clear and free access to the nominated address at all times, and that such access is suitable to accept the weight of laden trucks, to enable them to undertake Delivery. Archiclad shall not be liable for any loss or damage to the site (including, without limitation, damage to pathways, driveways and concrete or paved or grassed areas) unless due to the negligence of Archiclad, and the Customer agrees to indemnify Archiclad against all costs incurred by Archiclad in recovering such vehicles in the event they become bogged or otherwise immovable.

## 7. Risk

Risk of damage to or loss of the Goods passes to the Customer on Delivery and the Customer must insure the Goods on or before Delivery.  
If any of the Goods are damaged or destroyed following Delivery but prior to ownership passing to the Customer, Archiclad is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by Archiclad is sufficient evidence of Archiclad's rights to receive the insurance proceeds without the need for any person dealing with Archiclad to make further enquiries.  
If the Customer requests Archiclad to leave Goods outside Archiclad's premises for collection or to deliver the Goods to an unattended location then such Goods shall be left at the Customer's sole risk.  
Where the Customer is to supply Archiclad with any design specifications (including, but not limited to CAD drawings) the Customer shall be responsible for providing accurate data. Archiclad shall not be liable whatsoever for any errors in the Goods that are caused by incorrect or inaccurate data being supplied by the Customer.  
Any advice, recommendation, information, assistance or service provided by Archiclad in relation to Goods supplied is given in good faith, is based on Archiclad's own knowledge and experience and shall be accepted without liability on the part of Archiclad, and it shall be the responsibility of the Customer to confirm the accuracy and reliability of the same in light of the use to which the Customer makes or intends to make of the Goods.

## 8. Title

Archiclad and the Customer agree that ownership of the Goods is not affected by Delivery and shall not pass until:  
(a) the Customer has paid Archiclad all amounts owing to Archiclad; and  
(b) the Customer has met all of its other obligations to Archiclad.  
It is further agreed that, until ownership of the Goods passes to the Customer in accordance with clause 8.1:  
(a) the Customer is only a bailee of the Goods and must return the Goods to Archiclad on request.

- The Customer holds the benefit of the Customer's insurance of the Goods on trust for Archiclad and must pay to Archiclad the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed.
- The Customer must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Customer sells, disposes or parts with possession of the Goods then the Customer must hold the proceeds of any such act on trust for Archiclad and must pay or deliver the proceeds to Archiclad on demand.
- The Customer should not convert or process the Goods or intermix them with other goods but if the Customer does so then the Customer holds the resulting product on trust for the benefit of Archiclad and must sell, dispose of or return the resulting product to Archiclad as it so directs.
- The Customer irrevocably authorises Archiclad to enter any premises where Archiclad believes the Goods are kept and recover possession of the Goods.
- Archiclad may recover possession of any Goods in transit whether or not Delivery has occurred.
- The Customer shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they remain the property of Archiclad.
- Archiclad may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Customer.

## 9. Personal Property Securities Act 2009 ("PPSA")

In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.  
Upon assenting to these terms and conditions in writing the Customer acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Goods that have previously been supplied and that will be supplied in the future by Archiclad to the Customer.  
The Customer undertakes to:

- promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which Archiclad may reasonably require to:
  - register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
    - register any other document required to be registered by the PPSA; or
    - correct a defect in a statement referred to in clause 9.3(a)(i) or 9.3(a)(ii);
  - indemnify, and upon demand reimburse, Archiclad for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Goods charged thereby;
  - not register a financing change statement in respect of a security interest without the prior written consent of Archiclad;
  - not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods in favour of a third party without the prior written consent of Archiclad;
  - immediately advise Archiclad of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.

Archiclad and the Customer agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.  
The Customer waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.  
The Customer waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.

Unless otherwise agreed to in writing by Archiclad, the Customer waives their right to receive a verification statement in accordance with section 157 of the PPSA.  
The Customer must unconditionally ratify any actions taken by Archiclad under clauses 9.3 to 9.5.

Subject to any express provisions to the contrary nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

## 10. Security and Charge

In consideration of Archiclad agreeing to supply the Goods, the Customer charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Customer either now or in the future, to secure the performance by the Customer of its obligations under these terms and conditions (including, but not limited to, the payment of any money).  
The Customer indemnifies Archiclad from and against all Archiclad's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising Archiclad's rights under this clause.  
The Customer irrevocably appoints Archiclad and each director of Archiclad as the Customer's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 10 including, but not limited to, signing any document on the Customer's behalf.

## 11. Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA)

The Customer must inspect the Goods on Delivery and must within three (3) business days of such time notify Archiclad in writing of any evident defect/damage, shortage in quantity, or failure to comply with the description or quote. The Customer must notify any other alleged defect in the Goods as soon as reasonably possible after any such defect becomes evident. Upon such notification the Customer must allow Archiclad to inspect the Goods.  
Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions (**Non-Excluded Guarantees**).

Archiclad acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.

Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, Archiclad makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Goods. Archiclad's liability in respect of these warranties is limited to the fullest extent permitted by law.

If the Customer is a consumer within the meaning of the CCA, Archiclad's liability is limited to the extent permitted by section 64A of Schedule 2.

If Archiclad is required to replace the Goods under this clause or the CCA, but is unable to do so, Archiclad may refund any money the Customer has paid for the Goods.  
If the Customer is not a consumer within the meaning of the CCA, Archiclad's liability for any defect or damage in the Goods is:

- limited to the value of any express warranty or warranty card provided to the Customer by Archiclad at Archiclad's sole discretion;
- limited to any warranty to which Archiclad is entitled, if Archiclad did not manufacture the Goods;
- otherwise negated absolutely.

Subject to this clause 11, returns will only be accepted provided that:  
(a) the Customer has complied with the provisions of clause 11.1; and  
(b) Archiclad has agreed that the Goods are defective; and  
(c) the Goods are returned within a reasonable time at the Customer's cost (if that cost is not significantly); and  
(d) the Goods are returned in as close a condition to that in which they were delivered as is possible.

Notwithstanding clauses 11.1 to 11.8 but subject to the CCA, Archiclad shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:

- the Customer failing to properly maintain or store the Goods;
- the Customer using the Goods for any purpose other than that for which they were designed;
- the Customer continuing the use of the Goods after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
- the Customer failing to follow any instructions or guidelines provided by Archiclad;
- fair wear and tear, any accident, or act of God.

Archiclad may in its absolute discretion accept non-defective Goods for return in which case Archiclad may require the Customer to pay handling fees of up to twenty-five percent (25%) of the value of the returned Goods plus any freight costs.  
Notwithstanding anything contained in this clause if Archiclad is required by a law to accept a return then Archiclad will only accept a return on the conditions imposed by that law.

## 12. Intellectual Property

The Customer agrees that Archiclad may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings or Goods which Archiclad has created for the Customer.

## 13. Default and Consequences of Default

Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar

month (and at Archiclad's sole discretion such interest shall compound monthly at such a rate) and as well as before any judgment. Both parties agree that this amount is a genuine pre-estimate of Archiclad's damages, and is not a penalty.

If the Customer owes Archiclad any money the Customer shall indemnify Archiclad from and against all costs and disbursements incurred by Archiclad in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, Archiclad's contract default fee, and bank dishonour fees).

Without prejudice to any other remedies Archiclad may have, if at any time the Customer is in breach of any obligation (including those relating to payment) under these terms and conditions Archiclad may suspend or terminate the supply of Goods to the Customer. Archiclad will not be liable to the Customer for any loss or damage the Customer suffers because Archiclad has exercised its rights under this clause.

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

- any money payable to Archiclad becomes overdue, or in Archiclad's opinion the Customer will be unable to make a payment when it falls due;
- the Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
- a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

## 14. Cancellation

Archiclad may cancel any contract to which these terms and conditions apply or cancel Delivery at any time before the Goods are delivered by giving written notice to the Customer. On giving such notice Archiclad shall repay to the Customer any money paid by the Customer for the Goods. Archiclad shall not be liable for any loss or damage whatsoever arising from such cancellation.

In the event that the Customer cancels Delivery, the Customer shall be liable for any and all loss incurred (whether direct or indirect) by Archiclad as a direct result of the cancellation (including, but not limited to, any loss of profits).

Cancellation of orders for Goods made to the Customer's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.

## 15. Privacy Act 1988

The Customer agrees for Archiclad to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, previous credit applications, credit history) about the Customer in relation to credit provided by Archiclad.

The Customer agrees that Archiclad may exchange information about the Customer with those credit providers and with related body corporates for the following purposes:

- to assess an application by the Customer; and
  - to notify other credit providers of a default by the Customer; and/or
  - to exchange information with other credit providers as to the status of this credit account, where the Customer is in default with other credit providers; and/or
  - to assess the creditworthiness of the Customer including the Customer's repayment history in the preceding two years.
- The Customer consents to Archiclad being given a consumer credit report to collect overdue payment on commercial credit.  
The Customer agrees that personal credit information provided may be used and retained by Archiclad for the following purposes (and for other agreed purposes or required by):

- the provision of Goods; and/or
- analysing, verifying and/or checking the Customer's credit, payment and/or status in relation to the provision of Goods; and/or
- processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Customer; and/or
- enabling the collection of amounts outstanding in relation to the Goods.

Archiclad may give information about the Customer to a CRB for the following purposes:

- to obtain a consumer credit report;
  - allow the CRB to create or maintain a credit information file about the Customer including credit history.
- The information given to the CRB may include:
- personal information as outlined in 15.1 above;
  - name of the credit provider and that Archiclad is a current credit provider to the Customer;
  - whether the credit provider is a licensee;
  - type of consumer credit;
  - details concerning the Customer's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);
  - if advice of consumer credit defaults, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and any debt recovery action commenced or alternatively that the Customer no longer has any overdue accounts and Archiclad has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);
  - information that, in the opinion of Archiclad, the Customer has committed a serious credit infringement;
  - advice that the amount of the Customer's overdue payment is equal to or more than one hundred and fifty dollars (\$150).

The Customer shall have the right to request (by e-mail) from Archiclad:

- a copy of the information about the Customer retained by Archiclad and the right to request that Archiclad correct any incorrect information; and
- that Archiclad does not disclose any personal information about the Customer for the purpose of direct marketing.

Archiclad will destroy personal information upon the Customer's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this agreement or is required to be maintained and/or stored in accordance with the law.

The Customer can make a privacy complaint by contacting Archiclad via e-mail. Archiclad will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Customer is not satisfied with the resolution provided, the Customer can make a complaint to the Information Commissioner at [www.oaic.gov.au](http://www.oaic.gov.au).

## 16. Building and Construction Industry Security of Payment Act 2002

At Archiclad's sole discretion, if there are any disputes or claims for unpaid Goods then the provisions of the Building and Construction Industry Security of Payment Act 2002 may apply.  
Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the Building and Construction Industry Security of Payment Act 2002 of Victoria, except to the extent permitted by the Act where applicable.

## 17. General

The failure by Archiclad to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect Archiclad's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

These terms and conditions and any contract to which they apply shall be governed by the laws of Victoria, the state in which Archiclad has its principal place of business, and are subject to the jurisdiction of the Melbourne courts in that state.

Subject to clause 11 Archiclad shall be under no liability whatsoever to the Customer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by Archiclad of these terms and conditions (alternatively Archiclad's liability shall be limited to damages which under no circumstances shall exceed the Price).

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

Archiclad may license or sub-contract all or any part of its rights and obligations without the Customer's consent.

The Customer agrees that Archiclad may amend these terms and conditions at any time. If Archiclad makes a change to these terms and conditions, then that change will take effect from the date on which Archiclad notifies the Customer of such change. The Customer will be taken to have accepted such changes if the Customer makes a further request for Archiclad to provide Goods to the Customer.

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

The Customer warrants that it has the power to enter into this agreement and has obtained all necessary authorisations to allow it to do so, it is not insolvent and that this agreement creates binding and valid legal obligations on it.

# CONFIDENTIAL CREDIT APPLICATION FORM

(continued)

## CREDIT ACCOUNT TERMS AND CONDITIONS (CONT'D)

**PLEASE READ FULLY THESE TERMS AND CONDITIONS BEFORE SIGNING THIS APPLICATION FORM**

### APPLICANT SIGNATURE/S

Application is hereby made for a credit account. I agree to be bound by the above terms, and consent to the terms under the Privacy Act 1988, as detailed in Clause 5 of the terms and conditions above. I acknowledge that the Supplier might in future acquire additional subsidiaries, which may supply Goods to me on credit, and I agree that the above terms will apply to the purchase of those Goods.

**ALL DIRECTORS, SOLE TRADERS AND BUSINESS PARTNERS SIGN BELOW**

**INDEPENDENT ADULT WITNESS SIGN BELOW  
(Not Spouses or Family Members, Directors or Shareholders.)  
Witness must witness signature of applicant at same time of signature.**

<b>(1) SIGNED BY</b> Signature _____ Print Name of Signatory _____ Date _____	<b>WITNESSED BY</b> Signature _____ Print Name of Witness _____ Address _____ Date _____
<b>(2) SIGNED BY</b> Signature _____ Print Name of Signatory _____ Date _____	<b>WITNESSED BY</b> Signature _____ Print Name of Witness _____ Address _____ Date _____
<b>(3) SIGNED BY</b> Signature _____ Print Name of Signatory _____ Date _____	<b>WITNESSED BY</b> Signature _____ Print Name of Witness _____ Address _____ Date _____
<b>(4) SIGNED BY</b> Signature _____ Print Name of Signatory _____ Date _____	<b>WITNESSED BY</b> Signature _____ Print Name of Witness _____ Address _____ Date _____

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# CONFIDENTIAL

# PERSONAL GUARANTEE AND INDEMNITY AGREEMENT

## Important Note

As part of your application for credit, this **Personal Guarantee and Indemnity Agreement** must be completed in full and signed by all Directors, Sole traders and Business Partners in the presence of Independent Witnesses (not Spouses or Family Members).

**Spouses of all Directors, Sole Traders and Business Partners are requested to also sign as Guarantors in the presence of Independent Witnesses.**

To: Archiclad Pty Limited ABN 82 100 917 191 at Thomastown or Archiclad Building Products Pty Limited ABN 90 143 831 038 at Lynbrook or Archiclad Superior Linings Pty Limited ABN 51 144 795 675 at Geelong and to each related body corporate of Archiclad Pty Limited at Thomastown or Archiclad Building Products Pty Limited at Lynbrook or Archiclad Superior Linings Pty Limited at Geelong its assigns here known as the "Supplier".

I the undersigned have requested the Supplier to

supply \_\_\_\_\_ trading as \_\_\_\_\_ (the Customer)  
Business or Company Name Trading Name and/or Trust Name

of \_\_\_\_\_  
Address of Business or Company

with Goods on credit. Should the Supplier elect to do so then:

1. I will indemnify the Supplier against any losses, costs, charges and expenses of any nature, which it might incur as a result of any default by the Customer or arising under this Guarantee. I agree that I will pay any stamp duty assessed on this Guarantee.
2. I will also be responsible to the Supplier for all outstanding monies due now or at any time in the future for Goods supplied by the Supplier to the Customer from time to time.
3. Both my Indemnity and my Guarantee are continuing security and will not be affected (whether or not I have notice of the flowing matters).
  - (a) If the Supplier:
    - (i) grants any extension of time or other indulgence to the Customer
    - (ii) refuses further credit to the Customer
    - (iii) Varies the terms of the Customer's account, or the arrangements between the Supplier and the Customer are changed in any other way (even if this increases my liability under this Guarantee and Indemnity).
  - (b) By the release of any of the Guarantors or if this Guarantee is unenforceable against any one or more of the Guarantors;
  - (c) If any payment by the Customer is later avoided by law.
4. I agree that each application for credit made by the Customer to any related body corporate of the Supplier is deemed to have been accepted from the date of the first invoice to the Customer; and without further notice to me, this Guarantee extends to all liabilities from the Customer to that related body corporate.
5. The Guarantee and Indemnity extends to credit given to the Customer in the future by a company which is not now, but at the time that such credit is extended, has become a related body corporate of the Supplier and may in such case be enforced by the Supplier.
6. This Guarantee may be withdrawn by the Guarantor, only at the expiry of fourteen (14) days from the day on which written notice of withdrawal is actually received at the Supplier's registered office by the Supplier's principal legal officer or regional credit manager, but will continue in force in respect of all debt incurred up to the date of withdrawal.
7. I agree that before providing credit to the Customer, the Supplier may seek from a credit agency a credit report containing personal information about me to assist in deciding whether to accept me as Guarantor for the Customer.
8. In this Guarantee:

"Goods" includes services and "Supplier" means Archiclad Pty Limited at Thomastown or Archiclad Building Products Pty Limited at Lynbrook or Archiclad Superior Linings Pty Limited at Geelong and each related body corporate of Archiclad Pty Limited at Thomastown or Archiclad Building Products Pty Limited at Lynbrook or Archiclad Superior Linings Pty Limited at Geelong and its assigns from whom Goods are purchased. Singular words include the plural and vice versa. Where there is more than one Guarantor, they will be bound jointly and severally.

"Related body corporate" has the same meaning as that given to the expression in the Corporations Act 2001. "Guarantee" means this Personal Guarantee and Indemnity Agreement. "Property" means all property owned by the Guarantor now or in the future, solely or jointly.

9. The Guarantor hereby agrees to charge all the equitable interest in freehold or leasehold property. The Guarantor agrees to deliver to the Supplier, within seven (7) days of demand, a properly executed Memorandum of Mortgage in a form approved by the Supplier and which includes a covenant providing that interest may be charged on all outstanding monies at the rate of 1.5% per month calculated on a daily basis on any monies due but unpaid. Such interest will be calculated from the due date of payment.

The Company and/or individual person(s) referred to in Section (1) and/or (2) of this application hereby Charge all their Right, Title, Interest (if any) in the property or properties referred to in Section (1) and (2) of this application and also any property or properties that they own currently or may acquire in the future solely or jointly or have or become to have a beneficial interest in, in favour of the Supplier, with the due and punctual observance and performance of all of the obligations of the Customer/Buyer. Such person(s) acknowledge that the Supplier, may at its discretion register and lodge a Caveat(s) on such property or properties in respect of the interests conferred on it under this clause. Such registration of a Caveat by the Supplier over the Customer(s) property or properties shall not be challenged by the Customer/Buyer in any way whatsoever, and the Customer/Buyer agrees not to take any steps in filing a "Lapsing Notice" via the Land Titles Office to have the Caveat removed, until such time the Customer/Buyer has paid all monies owing by it to the Supplier as claimed from time to time. If the charge created by this clause is or becomes void or unenforceable, it may be severed from this agreement without any effect on its validity; and the Guarantor will not be exonerated in whole or part. Nor will the Supplier's rights, remedies or recourse against the Guarantor or any other Guarantor in any way be prejudiced or adversely affected by such a severance.

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# CONFIDENTIAL

# PERSONAL GUARANTEE AND INDEMNITY AGREEMENT (continued)

## CERTIFICATE OF GUARANTEE

### EXECUTED AS A DEED

#### Agreement to Terms of the Personal Guarantee and Indemnity

By signing below as Guarantor, in the presence of a Witness, I certify that I have read the terms of the Personal Guarantee and Indemnity Agreement and understand its terms and that it is an important legal document. In particular, I understand that if the Customer fails to make any required payments to the Supplier, the Supplier may recover the amount of these payments from me personally. In this case the Supplier may, amongst other recovery rights, take a charge over any real property that I have a legal or equitable interest in. Further, I have read and consent to the terms under the Privacy Act 1988, as detailed in Clause 5 of the Credit Application Terms and Conditions. I certify that prior to the execution of the Personal Guarantee and Indemnity Agreement, I have had the opportunity of taking independent legal advice regarding its meaning and effect.

#### Signing of Personal Guarantee and Indemnity—All Directors, Sole Traders, Business Partners and any other Guarantors

All Directors, Sole traders and Business Partners and any other Guarantors complete and sign below as Guarantors in the presence of Independent Witnesses (not Spouses

#### ALL GUARANTORS AND INDEPENDENT WITNESSES SIGN BELOW

##### ALL GUARANTORS SIGN BELOW

##### INDEPENDENT ADULT WITNESS SIGN BELOW (Not Spouses or Family Members, Directors or Shareholders) Witness must witness signature of Guarantor at same time of signature.

<p><b>(1) SIGNED BY</b></p> Signature _____ Print Name of Signatory _____ Date _____	<p><b>WITNESSED BY</b></p> Signature _____ Print Name of Witness _____ Address _____ Date _____
<p><b>(2) SIGNED BY</b></p> Signature _____ Print Name of Signatory _____ Date _____	<p><b>WITNESSED BY</b></p> Signature _____ Print Name of Witness _____ Address _____ Date _____
<p><b>(3) SIGNED BY</b></p> Signature _____ Print Name of Signatory _____ Date _____	<p><b>WITNESSED BY</b></p> Signature _____ Print Name of Witness _____ Address _____ Date _____
<p><b>(4) SIGNED BY</b></p> Signature _____ Print Name of Signatory _____ Date _____	<p><b>WITNESSED BY</b></p> Signature _____ Print Name of Witness _____ Address _____ Date _____

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