

## TRADING ACCOUNT APPLICATION

SECTION 1 – APPLICANT DETAILS		Application Date:	
Customer type: (select one)	<input type="checkbox"/> Sole trader	<input type="checkbox"/> Partnership	<input type="checkbox"/> Company <input type="checkbox"/> Trust
Trading Name: (as per ABN)			
Trustee Name(s):			
Trading as: (Registered Business Name)			
ABN:		ACN:	
Are you GST registered: Y / N		Are you a Hobby Farmer: Y / N (if yes please provide exemption certification)	
Type of business:		How long established?	
Street address: (including street name and number)			Postcode:
Postal address: (if different)			Postcode:
Telephone:	Mobile:	Facsimile:	
Email:			
Statement method: (select one)	<input type="checkbox"/> Email or <input type="checkbox"/> Post		
Invoice method: (select one)	<input type="checkbox"/> Email or <input type="checkbox"/> Print		
DIRECTOR, PARTNER, SOLE TRADER OR TRUSTEE DETAILS			
	Full names of directors (if company), partners, sole trader or trustee	Residential address (tick box if same as above)	Date of birth (dd/mm/yy)
1			
2			
3			
4			
BANK DETAILS			
Bank:	BSB:	Account No.:	Account name:
PROPERTY DETAILS			
Name:	Location:	Owner:	
PIC:	NGR:	Ha:	
SECTION 2 – CREDIT LIMIT DETAILS			
Estimated monthly purchase: \$		Credit limit required: \$	
Primary Delta branch:			

## SECTION 3 – ACKNOWLEDGEMENT AND DECLARATION

To : Delta Agribusiness Pty Ltd of 287 Boorowa St, Young, NSW, 2594 (**Delta**)

I/We the Customer named above (variously in this application called "**I/we**" and "**me/us**") agree, declare and acknowledge that:

- (a) if this credit application is accepted by Delta, all of its Conditions of Sale as amended from time to time (**Terms**) will be binding on me/us;
- (b) I/we have been given, read and understood the Terms currently employed by Delta at the time of completing this application;
- (c) I/we further acknowledge that if the Customer is a corporation, provision of credit pursuant to this application may at Delta's absolute discretion, be subject to and conditional upon the directors executing the attached Guarantee and Indemnity;
- (d) the information set out in this application is true and correct; and
- (e) Delta will rely on the information provided and is hereby induced to grant credit to me/us.

### DECLARATION FOR THE NATIONAL CREDIT CODE:

I/We declare that the credit to be provided to me/us by Delta is to be applied wholly or predominantly for business and/or investment purposes.

(**Important:** In signing this application you may lose your protection under the National Credit Code.)

I/We consent to and authorise:

- (a) the request by Delta of credit reporting information about me/us from a credit reporting body for the purpose of assessing this application or in connection with the attached Guarantee and Indemnity;
- (b) the provision by Delta of credit information to a credit reporting body to allow the credit reporting body to derive credit reporting information about me/us;
- (c) the disclosure of credit reporting information about me/us by a credit reporting body to Delta, any agent of Delta assisting in processing the application and any other provider of credit to me/us named in this application; and
- (d) the disclosure by Delta of credit eligibility information to other credit providers and any collection agent of Delta.

### DECLARATION FOR THE PRIVACY ACT:

I/We understand that the information permitted to be disclosed under the Privacy Act 1988 (Cth) includes:

- (a) details to identify me/us;
- (b) the fact that I/we have applied for credit, the amount, or that Delta is a current credit provider to me/us;
- (c) advice that payments previously notified as unpaid are no longer overdue;
- (d) repayment history information;
- (e) in specified circumstances, default information;
- (f) in specified circumstances, that in the opinion of Delta I/we have committed a serious credit infringement; and
- (g) the fact that credit provided to me/us by Delta has been paid or otherwise discharged.

I/we understand that I/we need not give any of the personal information requested in this application. However, without this information it may not be possible to process this application or provide me/us with an appropriate level of service.

### Who must sign this application on behalf of the Customer:

**Companies** – Where there is only one director then that person must sign. Where there are two or more directors then two directors or a director + company secretary must sign.

**Sole traders operating under their own business name** – The individual must sign.

**Partnerships** – All partners of the partnership must sign.

**Trustees** – All individual trustees must sign, or for corporate trustee see directions for companies above.

Signature :	_____	Print Name:_____	Date:_____
Signature :	_____	Print Name:_____	Date:_____
Signature :	_____	Print Name:_____	Date:_____
Signature :	_____	Print Name:_____	Date:_____

## SECTION 4 – TRADE REFERENCES

1.	Phone no:
2.	Phone no:
3.	Phone no:
4.	Phone no:

**IMPORTANT:** If you require a credit limit exceeding \$75,000 please complete the Guarantee and Indemnity on page 5 of this form or attach your financial records.

## **CONDITIONS OF SALE** **("Terms")**

### **1. DEFINITION**

In these Terms:

**Goods** means all products and services agreed to be supplied by Delta or a supplier which has entered into an arrangement with Delta to supply products or services to the Customer under any contract, arrangement or understanding between Delta and the Customer including but not limited to goods described in any invoice Delta issues to the Customer;

**Contract** means any contract for the sale or supply of Goods entered into between Delta and the Customer and includes these Terms;

**Customer** means the person making the application or entering into a Contract with Delta;

**Delta** means Delta Agribusiness Pty Ltd ABN 93 118 781 445 and its agents, employees, controlled entities and any related bodies corporate as defined in the Corporations Act 2001 (if such controlled entity or related body corporate is named as the party making or accepting the Customer's order of Goods).

### **2. STATUTORY PROVISIONS**

These Terms:

(a) shall be subject to the provisions of the Competition and Consumer Act 2010, any statutory amendment or re-enactment thereof for the time being in force and any other relevant and applicable State and/or Commonwealth legislation (the **Statutory Provisions**); (b) unless Delta otherwise agrees in writing, these Terms are the only terms and conditions of sale to which Delta will be bound and the Customer agrees that these Terms will in all circumstances prevail over the Customer's terms and conditions of purchase (if any); and (c) supersede and exclude all prior and other discussions, representations (contractual or otherwise) and arrangements relating to the supply of the Goods including, but not limited to, those relating to the performance of the Goods or the results that ought to be expected from using the Goods.

### **3. LIABILITY OF DELTA**

Delta will not be liable for any loss or damage whatsoever suffered by the Customer as a result of any act, omission or statement made by Delta, its employees, contractors or agents whether negligent or not, except that nothing in these Terms limits any liability imposed by any statute unless or to the extent that it is lawful to do so.

### **4. TITLE**

(a) Title to and property in the Goods shall not pass to the Customer and is reserved to Delta until the total purchase price for the Goods and any other amounts outstanding to Delta from the Customer have been paid in full. (b) The Customer acknowledges that until title in and to the Goods passes to the Customer in accordance with this clause, the Customer holds the Goods as bailee of Delta and that a fiduciary relationship exists between the Customer and Delta. (c) Until title in and to the Goods passes to the Customer in accordance with this clause the Customer shall store the Goods separately and in such a manner that they are clearly identified as the property of Delta and shall insure the Goods with a reputable insurer until title passes to the Customer. Delta shall be entitled at any time until title in and to the Goods passes to the Customer to demand evidence of such insurance and the return of the Goods and shall be entitled without notice to the Customer and without liability to the Customer to enter any premises occupied by the Customer in order to search for and remove the Goods. If the Customer sells any of the Goods while money is owed to Delta, the Customer must keep the proceeds of the sale in a separate account and not mix them with any other funds. (d) If the Customer uses the Goods in some farming or manufacturing or construction process of its own or of some third party, then the Customer shall hold such part of the proceeds of such farming or manufacturing or construction process as relates to such Goods on trust for Delta. Such part shall be deemed to equal in dollar terms the amount owing by the Customer to Delta and at the time of payment of such proceeds the Customer's obligation to pay the amount owed for such Goods will be discharged. (e) If the Goods are resold, or goods using or reselling the Goods are grown or manufactured and resold by the Customer, the Customer holds all of the book debts owed in respect of such sales and proceeds of such sales on trust for Delta. Such part of the book debts and proceeds shall be deemed to equal in dollar terms the amount owed by the Customer to Delta at the time of the receipt of such book debts.

### **5. PERSONAL PROPERTY SECURITIES ACT 2009**

(a) The Customer acknowledges that the Contract constitutes a security agreement for the purposes of section 20 of the Personal Property Securities Act 2009 (**PPSA**) and that a security interest exists in all Goods (and their proceeds) previously supplied by Delta to the Customer (if any) and in all future Goods (and their proceeds). (b) The Customer will execute documents and do such further acts as may be required by Delta to register the security interest granted to Delta under the Contract under the PPSA. (c) Until ownership of the Goods passes, the Customer waives the Customer's rights under the following provisions of Part 4 of the PPSA: (i) to receive a notice of intention of removal of an accession (section 95); (ii) to receive a notice that Delta decides to enforce its security interest in accordance with land law (section 118); (iii) to receive a notice of enforcement action against liquid assets (section 121(4)); (iv) to receive a notice of disposal of goods by Delta purchasing the Goods (section 129); (v) to receive a notice to dispose of Goods (section 130); (vi) to receive a statement of account following disposal of goods (section 132(2)); (vii) to receive a statement of account if no disposal of Goods for each 6 month period (section 132(4)); (viii) to receive notice of any proposal of Delta to retain Goods (section 135); (ix) to object to any proposal of Delta to either retain or dispose of Goods (section 137); (x) to redeem the Goods (section 142); (xi) to reinstate the security agreement (section 143); (xii) to receive a notice of any verification statement (section 157(1) and section 157(3)); (d) The Customer further agrees that where Delta has rights in addition to those under Part 4 of the PPSA, those rights will continue to apply. (e) Until ownership of the Goods passes, the Customer must not give to Delta a written demand or allow any other person to give Delta a written demand requiring Delta to register a financing change statement under the PPSA or enter into or allow any other person to enter into the register of personal property securities a financing change statement under the PPSA. (f) The Customer acknowledges that it has received value as at the date of first delivery of the Goods and have not agreed to postpone the time for attachment of the security interest (as defined in the PPSA) granted to us under these Conditions of Sale. (g) The Customer irrevocably grants to Delta the right to enter upon the Customer's property or premises, without notice, and without being in any way liable to the Customer or to any third party, if Delta has cause to exercise any of Delta's rights under sections 123 or 128 of the PPSA, and the Customer shall indemnify Delta from any claims made by any third party as a result of such exercise.

### **6. PAYMENT AND SERVICE CHARGES**

If credit terms are offered, the Customer must pay, without setoff or deduction, the price charged by Delta for the Goods within 30 days following the end of the month during which the Goods were supplied or provided, unless a shorter period for payment is specified on the front of the invoice in which case payment must be made within the specified period. The Customer is not entitled to withhold any payments or to refuse payment on the grounds of counter claims which are disputed by Delta. Should the Customer not pay within 30 days (or the period shown on the invoice), Delta shall be entitled to charge an overdue service charge on the amount outstanding as liquidated damages at the rate shown on the front of the invoice.

### **7. DEFAULT**

(a) In these Terms an event of default occurs when: (i) the Customer fails to pay any monies due to Delta by the due date for payment; (ii) the Customer breaches any other provision of these Terms; (iii) the Customer becomes bankrupt, insolvent (within the meaning of the Corporations Act 2001 (Cth)) or under administration, or any step is taken to instigate such event; or (iv) distress, attachment or other execution is levied or enforced over any of the Customer's property. (b) If an event of default occurs: (i) all monies due (actually or contingently) by the Customer become immediately due and payable; (ii) a service charge will be charged on all overdue amounts in accordance with clause 6; (iii) the Customer must on demand pay to Delta all costs and expenses incurred by it as a result of the event of default, including all legal costs on a full indemnity basis; and (iv) the Customer must on demand grant Delta a mortgage or other security over any of the Customer's property real or personal which Delta requires and such security shall be in a form acceptable to Delta. (c) Notwithstanding (a) or (b) above, Delta may at all times in its sole and unfettered discretion and without being under any duty or obligation to assign reasons therefore review, alter or terminate the Customer's credit limit or payment terms without notice. Without limiting the generality of the foregoing, the decision of Delta shall be final and Delta accepts no liability or responsibility for any loss, howsoever arising, incurred by the Customer due to the operation of this condition.

### **8. PALLETS AND BULK CONTAINERS**

Unless otherwise agreed to in writing all pallets on which Goods are delivered remain the property of Delta and must be returned at the Customer's expense in good order and condition to the store of Delta from which they were delivered. Delta may levy a deposit charge for pallets and bulk containers which will be credited back upon their return. It is the Customer's responsibility to return empty returnable bulk containers (including bulk bags and bulk bins) in the same condition as they were supplied (fair wear and tear excepted) to the location from which they were supplied or other location nominated by Delta. At all times bulk containers supplied by Delta will remain the property of Delta and must not be used for any commodity other than that contained in the bulk containers at the time of delivery.

### **9. GENERAL LIEN**

In addition to any right of lien to which Delta may be entitled under the common law, Delta shall be entitled to exercise a general lien over all items in its possession belonging to the Customer until the Customer has paid in full for all Goods supplied by Delta to the Customer. Delta may in its sole discretion sell any item that is subject to the said lien, provided that Delta shall pay to the Customer any surplus proceeds that are realised by it from a sale of any such items after discharging in full all monies outstanding to Delta in respect of Goods that have been delivered by it to the Customer and all reasonable costs of sale incurred by Delta. The Customer acknowledges that Delta has a security interest (for the purposes of the PPSA) in these items, and the proceeds of these items, until the Customer has paid in full for all Goods supplied by Delta in accordance with this clause. The Customer will do anything required by Delta to enable Delta to register this security interest, with the priority Delta requires, and maintaining that registration. Despite this requirement for registration of this security interest, and regardless of whether or not it is actually registered, Delta may perfect this security interest by possession of the relevant items.

**10. SEVERANCE**

Each clause and subclause of these Terms is separate and independent. If any clause or subclause is found to be invalid or ineffective, the other clauses or subclauses will not be adversely affected.

**11. GOVERNING LAW**

The contract shall be governed and construed in accordance with the law in force in the State of New South Wales. The Customer and Delta hereto irrevocably submit to and accept, generally and unconditionally, the non-exclusive jurisdiction of any of the courts of that State as Delta may elect with respect to any legal action or proceedings which may be brought at any time relating in any way to this Contract.

**12. TRANSACTION TAX**

Where a transaction tax, including a goods and services tax (**GST**) and any transaction taxes that come into existence after the date of these Terms, applies to any supply made under these Terms, Delta may recover from the Customer an additional amount on account of that transaction tax.

**13. SET-OFF**

Delta in its sole and unlettered discretion may at any time set-off any amount owing by Delta to the Customer on any account whatsoever, including any monies held by Delta for or on account of the Customer, against any amount owing by the Customer to Delta in respect of the Goods supplied by Delta whether or not that amount has become due and payable.

**14. NOTIFICATION OF CHANGE OF DETAILS**

Where any change takes places in the Customer's trading structure or management, including any change of director, shareholder or any change in partnership or trusteeship notwithstanding any advice by the Customer, to Delta, the Customer shall not continue to operate its credit account without Delta's prior written consent, and the Customer shall remain liable for all amounts owed to Delta until the whole amount (including service and other charges) has been paid in full to Delta.

**15. VARIATION OF TERMS**

Delta has the right to vary these Terms at any time by notice to the Customer and thereafter the varied Terms are binding on the Customer.

**16. TRUSTS**

These Terms bind the Customer both personally and as trustee of any trust of which the Customer is trustee.

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**Office Use Only**

**Received by:** .....

**Date:** .....

**Comments:** .....

.....

**Approved by:** .....

**Date:** .....

**Credit Limit: \$** .....

**Account Opened:** .....

**Account Code:** .....

**GUARANTEE AND INDEMNITY**  
**(must be completed where credit limit exceeds \$75,000)**

In consideration of Delta agreeing at the request of the customer named in the Trading Account Application of which this Guarantee forms part (**Customer**) to sell goods or give credit to the Customer each person named as guarantor in the Schedule (**Guarantor**) enters into this Guarantee and Indemnity (**Guarantee**) in favour of Delta in the following terms:

**1. GUARANTEE**

The Guarantor unconditionally and irrevocably guarantees to Delta the due and punctual payment of the Guaranteed Moneys and agrees:

- (a) to pay an amount equal to the Guaranteed Moneys from time to time owing and whether or not any prior demand is made;
- (b) any statement signed by a Delta director, secretary, manager or authorised representative certifying the amount of Guaranteed Moneys or the money owing by the Guarantor under his Guarantee is, in the absence of manifest error, binding and conclusive on and against the Guarantor.
- (c) this Guarantee is a continuing guarantee and remains in full force and effect until all the Guaranteed Moneys are paid or satisfied in full and is in addition to, and not prejudiced or affected by any other security or guarantee held by Delta for the payment of Guaranteed Moneys;
- (d) the liabilities of the Guarantor and the rights of Delta under this Guarantee are not affected by anything which might otherwise affect them at law or in equity; and
- (e) if any payment by the Guarantor under this Guarantee or by the Customer is avoided, set aside, ordered to be refunded or reduced, rendered unenforceable by any laws relating to bankruptcy, insolvency or liquidation, that payment will be taken not to have been made and Delta is entitled to recover from the Guarantor the value of that payment as if that payment had never been made. This clause continues after this Guarantee is discharged.

**2. INDEMNITY**

If the obligation of the Customer to pay the Guaranteed Moneys to Delta is unenforceable for any reason, the Guarantor as a separate undertaking unconditionally and irrevocably indemnifies Delta against any loss Delta suffers as a result. Delta need not incur any expense or make any payment before enforcing this right of indemnity.

**3. WAIVER**

No failure or delay by Delta to exercise any power, right or remedy under this Guarantee operates as a waiver, nor does any single or partial exercise of any power, right or remedy preclude any other or further exercise of that power, right or remedy. Delta's rights and remedies under this Guarantee are in addition to any rights and remedies arising at law.

**4. CLAIM IN ADMINISTRATION**

Until this Guarantee is released by Delta, the Guarantor will not without Delta's consent, prove in any Administration of the Customer or of any Guarantor in competition with Delta.

**5. APPLICATION OF MONEYS RECEIVED**

If Delta receives or recovers money in respect of debts of the Customer or anyone else, Delta may use it to pay off whichever part of those debts it chooses and does not have to apply it for the Guarantor's benefit.

**6. CHARGE**

As security for payment to Delta of the Guaranteed Moneys and for its obligations generally under this Guarantee, the Guarantor charges in favour of Delta the whole of the Guarantor's undertaking, property and assets (including, without limitation, all of the Guarantor's interests, both legal and beneficial, in freehold and leasehold land and personal property) both current and later acquired.

**7. TRUSTS**

This document binds the Guarantor both personally and as trustee of any trust of which the Guarantor is a trustee.

**8. EXPENSES**

The Guarantor must pay to Delta all costs, charges, fees and expenses (including, without limitation, all stamp duty and legal fees on an indemnity basis) incurred by Delta in connection with any entry into this Guarantee, the exercise or attempted exercise of any power, right or remedy under this Guarantee, and the failure of the Guarantor to comply with any obligations under this Guarantee

**9. ACKNOWLEDGEMENT**

The Guarantor acknowledges that the Guarantor: (a) has entered into this Guarantee voluntarily; (b) has read and understood the nature and consequences of entering into this Guarantee; (c) has not signed this Guarantee on the basis of any representation of any of Delta, its employees, agents or representatives or under the duress of any person; (d) is entitled to seek independent legal advice before signing this Guarantee; and (e) submits to the non-exclusive jurisdiction of the courts of the State in which this Guarantee is received by Delta and that the law applying in that State is the proper law governing this Guarantee and, failing such receipt, the Courts of the State of New South Wales.

**10. SEVERANCE**

Each clause and subclause of this Guarantee is separate and independent. If any clause or subclause is found to be invalid or ineffective, the other clauses or subclauses or parts will not be adversely affected.

**11. DEFINITIONS**

In this Guarantee unless the context requires otherwise: **Administration** includes any administration or liquidation of a corporation, arrangement, receivership and management or anything similar; **Delta** means Delta Agribusiness Pty Ltd ABN 93 118 781 445 and its agents, employees, controlled entities and related bodies corporate as defined in the Corporations Act 2001; **Guaranteed Moneys** means all moneys which are, will or may be at any time in the future, owing or payable to by the Customer for any reason whatsoever. It includes, without limitation, money by way of principal, interest, fees, costs, indemnities, charges, duties or expenses or payment of liquidated damages. Where the Customer would have been liable but for its Administration, it will still be taken to be liable.

**12. INTERPRETATION**

In this Guarantee unless the context requires otherwise, all references to a party include the party's successors and permitted assigns and where there is more than one Guarantor, the obligations of each Guarantor are joint and several.

**I have read and understood this document. I have not relied on anything said to me by the Customer or Delta as to what it means or what its effect may be.**

SIGNED by each Guarantor in the presence of the witnesses named below

Guarantor's name (print):	Signature:
Guarantor's address:	
Witness' name (print):	Signature:
Witness' address:	
Guarantor's name (print):	Signature:
Guarantor's address:	
Witness' name (print):	Signature:
Witness' address:	

**IMPORTANT: This is an important document. It may require you to pay someone else's debts. You should ensure that you read and understand the terms of this Guarantee. If necessary, seek independent legal advice.**