

# Credit Application Form

CUSTOMER NUMBER \_\_\_\_\_  
(OFFICIAL USE)

Email completed form to: [accounts@educatingkids.com.au](mailto:accounts@educatingkids.com.au)

Must receive all pages of application

Accounts number: 1300 099 799 (Option 2)

I/We hereby make application to establish credit facilities with those companies listed in the "Terms and Conditions of the Supply of Goods".

APPLICANT DETAILS				
BUSINESS STATUS (Please tick)	Company	Government or Council Owned	Individual/Sole Trader	Partnership
Other (Provide Details)				
COMPANY NAME				
TRADING NAME				
ACN		ABN		
COUNCIL NAME/GOVERNMENT NAME				
<i>If Council Centre, please specify which local government you are in (Government Dept only required to complete page 1 and sign page 4):</i>				
DATE OF BUSINESS COMMENCED		HOW LONG IN BUSINESS UNDER PRESENT OWNERSHIP		(YEARS)
BILLING ADDRESS				
CITY				
STATE		POSTCODE		
ACCOUNTS PHONE		CONTACT		
ACCOUNTS EMAIL				

DELIVERY ADDRESS <i>(Must not be a PO Box)</i>	
<i>Please tick if same as Billing Address</i>	<i>Please tick if there are multiple centres (must be under applications ABN)</i>
ADDRESS	
CITY	CENTRE PHONE
STATE	POSTCODE
CENTRE EMAIL	

FOR ADDITIONAL CENTRES <i>Request for additional centre template by contacting Accounts/Customer Service or your Sales Manager</i>
NO. OF CENTRES

CREDIT LIMIT REQUIREMENTS
CREDIT REQUESTED
NCFO TEMPORARY CREDIT REQUIREMENT

METHOD OF PAYMENT
<b>Please select if you wish for your centre to be billed directly or via your Head Office.</b> <b>We accept Credit Cards/ZIP/Direct Debit only.</b>
Billed Directly                      Billed to Head Office                      Head Office Customer Number (Official use)

BANK DETAILS
Account: <b>Educating Kids</b> Bank: <b>Westpac</b> BSB: <b>033-003</b> ACCOUNT: <b>638430</b>

**COMPLETED BY**

I confirm that the information given in this form is true and correct and warrant I am duly authorised to apply for credit and execute this Application.

**FOR CHILDCARE/PRESCHOOL/PLAYGROUPS**

CENTRE/BUSINESS OWNER	CENTRE DIRECTOR/MANAGER	CFO	MANAGEMENT COMPANY
FULL NAME	DATE		
MOBILE	EMAIL		

**APPLICATION AND TERMS AND CONDITIONS ARE ACCEPTED BY****1 SOLE TRADER/PARTNERSHIP/TRUSTEE/DIRECTORS DETAILS**

SOLE TRADER	PARTNER	TRUSTEE	DIRECTOR
FULL NAME	TITLE		
DRIVERS LICENCE NUMBER	DATE OF BIRTH		
PRIVATE ADDRESS			
STATE	POSTCODE		
SIGNATURE	DATE		

**2 SOLE TRADER/PARTNERSHIP/TRUSTEE/DIRECTORS DETAILS**

SOLE TRADER	PARTNERSHIP	TRUSTEE	DIRECTOR
FULL NAME	TITLE		
DRIVER LICENCE NUMBER	DATE OF BIRTH		
PRIVATE ADDRESS			
STATE	POSTCODE		
SIGNATURE	DATE		

**3 SOLE TRADER/PARTNERSHIP/TRUSTEE/DIRECTORS DETAILS**

SOLE TRADER	PARTNERSHIP	TRUSTEE	DIRECTOR
FULL NAME	TITLE		
DRIVERS LICENCE NUMBER	DATE OF BIRTH		
PRIVATE ADDRESS			
STATE	POSTCODE		
SIGNATURE	DATE		

I hereby acknowledge and declare, that: The applicant, its proprietors, directors, or partners, and if an individual, are above the age of 18 years.

- ii) I have read and understood and been advised to obtain and have had the opportunity to obtain legal advice in relation to this account application and the current standard Educating Kids Terms and Conditions of Trade, which form part of, and are intended to be read in conjunction with this account application (copy contained herein).
- iii) The applicant agrees that if the application is approved that the applicant will abide by Educating Kids Terms and Conditions of Trade which may be varied from time to time by Educating Kids giving the applicant written notice of Educating Kids amended Terms and Conditions of Trade. Unless the applicant notifies Educating Kids in writing within seven (7) days that it does not agree to the amended terms then the applicant will be bound by any such amendments.
- iv) The above information is true and correct and I warrant I am the authorised representative of the applicant named above, and that I have the authority to agree to these terms and conditions on its behalf and have the authority of the applicant, its proprietors, directors, or partners (as the case may be) to provide the information and acknowledgements in this application on their behalf.
- v) Educating Kids may in accordance with the Privacy Act 1988 (Cth.)[the PA] and related or similar legislation provide to and seek from credit reporting bodies, other credit providers, prospective or current guarantors of the applicant or debt collection agencies personal information (including the above information, identification, credit, credit eligibility, payment, directors, partners or trustees and that information may be used for the purposes including:
  - (a) assessing this Account Application of the applicant ;
  - (b) assessing whether to provide or continue to provide goods, services or credit to the Customer
  - (c) for the purpose of a credit reporting body or another credit provider assessing any other application for credit or managing credit obtained by or concerning any of them;
  - (d) the internal management purposes of Educating Kids, that are directly related to the provision of management of the consumer, commercial or other credit by Educating Kids.
  - (e) for a particular commercial credit related purpose of Educating Kids in relation to the applicant or any Guarantor;
  - (f) a credit guarantee purpose of Educating Kids in relation to the applicant or any Guarantor;
  - (g) assisting the applicant or any Guarantor to avoid defaulting on his or her obligations in relation to consumer credit provided by Educating Kids to the applicant or Guarantor;
  - (h) assisting an application for consumer credit or commercial credit made to the recipient;
  - (i) for the purpose of a prospective guarantor of the applicant considering whether to offer to act as a guarantor in relation to the credit or to offer property as security for the credit.
  - (j) for a purpose related to the enforcement, or proposed enforcement, of any Guarantor's guarantee; or,
  - (k) for the purpose of collecting payments that are overdue in relation to consumer or commercial credit provided by Educating Kids to the applicant or a Guarantor.

vi) I am and each of the applicant, its proprietors, directors, partners or trustees is aware, that:

1. Educating Kids website at **www.educatingkids.com.au** includes a statement of information about credit reporting under clause 4.1 of the Privacy (Credit Reporting Code 2014 [the Code], including the names and contact details of the Credit Reporting Bodies (CRB), to which it is likely to disclose credit information;
2. the key issues contained in the statement under the Code are:
  - A. that the CRB, to whom the credit information is provided, may include the information in reports provided to other credit providers to assist them to assess the credit worthiness of the Customer, its proprietors, directors, partners or trustees;
  - B. that if the applicant fails to meet its payment obligations in relation to consumer credit or commits a serious credit infringement, Educating Kids may be entitled to disclose this to the CRB;
  - C. how the applicant, its proprietors, directors or trustees may obtain Educating Kids policy about the management of credit-related personal information required by Section 21B of the PA and the CRB's policy about the management of credit-related personal information required by Section 20B.
  - D. the right to access the information from Educating Kids, to request it to correct the information and to make a complaint to Educating Kids.
  - E. the right to request ERBs not to use their credit reporting information for the purposes of pre-screening of direct marketing by a Credit Provider; and
  - F. the right to request the CRB not to use or disclose credit reporting information about an individual, if the individual believes on reasonable grounds that the individual has been, or is likely to be, a victim of fraud.
3. a statement of these matters may be obtained in hard copy upon request. I am and each of the applicant, its proprietors, directors, or partners is further aware:
  - A. that the policy (the credit reporting policy) of Educating Kids contains information about how an individual may access the credit eligibility information about the individual that is held by Educating Kids;
  - B. that the policy contains information about how an individual may seek the correction of credit information or credit eligibility information about the individual that is held by Educating Kids;
  - C. that the policy contains information about how an individual may complain about a failure of Educating Kids to comply with Division 3, Part III A of the PA or the Code;
  - D. that the policy contains information about how Educating Kids will deal with such a complaint; that Educating Kids is unlikely to disclose credit information or credit eligibility information to entities that do not have an Australian link; but if it were likely practicable, the countries in which those entities are likely to be located would be specified in the policy.

**SIGNED** \_\_\_\_\_ **DATE** \_\_\_\_\_

**FULL NAME** \_\_\_\_\_ **AUTHORISED POSITION** \_\_\_\_\_

## TERMS & CONDITIONS FOR THE SUPPLY OF GOODS

These Terms and Conditions shall apply between Educating Kids (ABN 31 091 745 818) and any other related bodies corporate ("the **Supplier**") and the Applicant named in the Application for a Commercial Credit Account ("the **Customer**") and applies to any contract or agreement between the Supplier and Customer for the supply of goods to the Customer to the exclusion of any terms the Customer issues.

### 1. Definitions

In these Terms and Conditions:

"Accession" has the meaning given by s10 of the Personal Property Securities Act 2009; "Goods" means the goods delivered by the Supplier to the Customer and the subject of an order by the Customer; "PMSI" has the meaning of the term "Purchase Money Security Interest" on the PPSA.

"PPSA" means Personal Property Securities Act 2009 (Cth); "PPS Register" has the meaning in clause 7.4 (e);

"Proceeds" has the meaning by s.31 of the PPSA; "Security Interest" has the meaning by s.12 of the PPSA

"Suppliers Security Interest" has the meaning defined in clause 7.4 (a)-(c); and

"Supply" means the supply of goods and/or services under these Terms and Conditions.

### 2. Credit Account

2.1 Subject to these terms and conditions, the Supplier agrees to supply goods to the Customer on credit for the amount as is notified by the Supplier to the Customer ("the Credit Limit").

2.2 The Supplier may, at its discretion and at any time:

(a) Vary this Agreement by notice in writing to the Customer at the address last notified to the Supplier;

(b) Vary the Credit Limit; and

(c) Withdraw credit without notice to the Customer.

### 3. Price

3.1 Unless otherwise agreed or required by law, the price for the Goods is exclusive of sales tax and/or goods and services tax ("GST").

3.2 (a) If GST is or will be payable on a Supply, then the supplier may increase the amount payable by the customer otherwise provided pursuant to these Terms and Conditions for that Supply by the amount of that GST.

(b) If there is an event in relation to a Supply which results in the amount of GST on the Supply being different from the amount of GST recovered under clause 3.2(a), the Supplier may recover from the customer any amount by which the GST on the Supply exceeds the amount recovered and must refund to the Customer any amount recovered which exceeds the GST on the Supply, whichever is the case.

(c) if, as a result of the introduction of a GST or a subsequent change to the imposition or calculation of the GST or as a result of any change in or abolition of other taxes (excluding income tax) occurring immediately before, upon or subsequent to the introduction of a GST, such that the costs incurred by the Supplier in making a Supply (excluding GST on the Supply) are increased, then the price payable by the Customer can be increased by the Supplier by the same proportion as the increase in the Suppliers costs.

(d) any rebates, discounts, allowances or other reductions in price calculated by reference to the sales value to which the customer is entitled or which are granted by the Supplier are to be calculated on the base price, that is after excluding any amount in respect of the GST payable by the Supplier on the relevant sales.

3.3 In addition to a variation to the amount payable by the customer under clause 3.2, the Supplier may vary the price of Goods supplied to the customer by giving written notice of variation.

3.4 A variation under clause 3.3 will not apply to Goods ordered before the date of receipt by the Customer of written notice of variation.

### 4. Delivery

4.1 The Supplier shall deliver the goods at a place for delivery nominated by the Customer.

4.2 Delivery of Goods to the Customer occurs when they are actually delivered by the Supplier, regardless of, whether the Customer accepts delivery.

4.3 Any time which the Supplier quotes for delivery is an estimate only.

4.4 The Supplier may cancel the order if it determines that it will be unable to deliver the goods within a reasonable time.

4.5 The Customer shall have no claim against the Supplier if the Supplier cancels the order or fails to deliver (for any reason) the Goods, or if there is any delay in the delivery of the Goods.

### 5. Payment

5.1 The Customer must pay for the Goods in full within approval trading terms in which the goods were supplied.

## TERMS & CONDITIONS FOR THE SUPPLY OF GOODS

- 5.2 The Supplier may require the Customer to pay cash in full prior to delivery if in the Supplier's opinion the credit worthiness of the Customer becomes unsatisfactory.
- 5.3 If the Customer has not paid in full by the due date, the Supplier may:
- (a) charge the Customer interest on the overdue moneys from the date of delivery of the Goods until Paid in full. The interest rate may be set by the Supplier without prior notice to the Customer at such rate as the Supplier may from time to time determine, which interest shall be deemed a genuine pre-estimate of the Supplier's loss by reason of the Customer's default, unless proven otherwise by the Customer;
  - (b) pursue an action for the price of the goods for which payment has not been made (plus damages, interest and costs), even though property in the goods remains with the Supplier.
- 5.5 The Customer must pay the Supplier for the Goods in full even if:
- (a) there was a delay in the delivery of Goods;
  - (b) the Customer disputes the quality, quantity or condition of the Goods delivery.
- 5.6 All payments must be made in Australian Dollars.
- 5.7 The Customer must pay to and indemnify the Supplier against all costs and expenses incurred by the Supplier in connection with:
- (a) default by the Customer under these Terms and Conditions
  - (b) the recovery of any monies due and payable but unpaid by the customer (including legal costs on a solicitor/client basis, commercial or mercantile agent and dishonour fees) ; and
  - (c) the exercise or attempted exercise by the Supplier of any power conferred on it by these Terms and Conditions.
- 5.8 A statement in writing signed by an authorised officer of the Supplier setting out the moneys due or owing to the Supplier at the date of the statement shall be sufficient evidence of the amount so due or owing unless manifest error can be shown.
- 5.9 If the Customer is a company, then satisfactory Guarantor/s (as approved by the Supplier) must execute the Guarantee and Indemnity set out on page 10 of this document before any credit can be approved. In the event that no Guarantee is executed, then the person/s signing this Agreement for or on behalf of the Company Customer shall be personally liable in the terms set out in the Deed of Guarantee and Indemnity
- 5.10 If the Customer is a partnership no change to the constitution of the partnership shall affect, impair or discharge the liability of the Customer under this Agreement whether past, present or future notwithstanding the provisions of any legislation or any similar enactment in amendment, modification or substitution regulating partnership.
- 5.12 The Supplier may refuse to supply goods and/or services to the Customer until all amounts due to the Supplier have been paid in full.
- 5.13 Notwithstanding anything else stated in these terms and conditions or in any credit application or other agreement, to which they relate:
- (a) the Customer shall be liable to pay the amount of any invoice for goods or services supplied by the Supplier forthwith upon its issue by the Supplier,
  - (b) the Customer shall only be entitled to delay payment to the Supplier upon the issue of an invoice for goods or services supplied for a period allowed by these terms and conditions, the credit application or other agreement ['the Credit Period'], upon the condition, that the Customer has not defaulted in making payment upon any other invoice for goods or services supplied by the Supplier to the Customer within the Credit Period applicable to them, and
  - (c) in the event of default by the Customer in payment for any goods or services under an invoice within an applicable Credit Period, the Supplier may immediately or at such time or times as it deems fit require and enforce payment forthwith for any other goods or services supplied by the Supplier to the Customer, whether or not subject of an issued invoice and irrespective of whether or not the Credit Period in relation to them has expired

### **6. Risk**

- 6.1 The risk of loss or damage to the Goods shall pass to the Customer on delivery. The Supplier accepts no liability for damage to goods in transit

### **7. Title**

- 7.1 Until the Customer has paid for the Goods in full and also paid all other moneys due and payable to the Supplier by the Customer:
- (a) property in the Goods shall remain with the Supplier ("the retention of title");
  - (b) the Customer shall hold the Goods as a fiduciary and bailee of the Supplier;

## TERMS & CONDITIONS FOR THE SUPPLY OF GOODS

- (c) the Customer shall hold the Goods in a way that clearly indicates the Supplier's title to the Goods
  - (d) if the Goods are processed or commingled with or made an accession to other goods by the Customer, the Customer shall record and make available to the Supplier on request the record of the date of the processing, commingling or accession and hold the product, mass or whole in a way that clearly indicates the Supplier's title to the product, mass or whole.
  - (e) the Customer shall not deal with the Goods, either in their original state or as part of a product, mass or whole, for a consideration of less value than the amount necessary to discharge the Customer's liability to the Supplier in full for or in relation to the Goods and shall retain the consideration or other Proceeds of the Goods separate from all other property of the Customer and in a manner, which clearly identifies it as such consideration or other Proceeds of the Goods, product, mass or whole (unless otherwise agreed in writing by the Supplier).
- 7.2 the Customer acknowledges that the installation of any goods sold to the Customer does not render such goods fixtures and that the parties intend that goods shall be capable of removal by the Supplier until property in the goods passes to the Customer.
- 7.3 the Customer must not sell, dispose, assign or encumber the goods (by mortgage, lien, charge or otherwise) without the consent of the Supplier.
- 7.4 The Customer agrees that:
- (a) a Security Interest is retained in favour of the Supplier in:
    - (i) the Goods;
    - (ii) the Proceeds of the Goods;
    - (iii) any other property, to which the Goods become an accession; (iv) any product or mass, of which the Goods become a part by manufacture, process, assembly or commingling
  - (b) the retention of title constitutes the grant of a purchase money security interest by the customer in favour of the supplier in respect of all present and after acquired Goods supplied to the customer by the supplier.
  - (c) the Security Interest secures: (i) the Customer's obligation to pay for the Goods, and (ii) any and all other obligations of the Customer to pay money or money's worth (including costs, expenses, damages or losses) for the benefit of the Supplier now or in the future or from time to time under this agreement.
  - (d) to the extent the Supplier's Security Interest secures the Customers obligation to pay for the Goods, it constitutes a PMSI;
  - (e) with respect to the Supplier's Security Interest, the Customer will when called upon by the Supplier sign any further documents or provide any further information which the Supplier may reasonably require to register a financing statement or financing change statement on the Personal Properties Security Register ("PPS Register"), or in connection with the issue of a verification statement;
  - (f) it will not register or apply to register a financing statement or financing change statement which is in any way connected with the Goods (or any accession, mass or product, of which they form part) without the Supplier's prior written consent, which may be given or withheld at the supplier's absolute discretion;
  - (g) it will pay any costs or expenses incurred by the Supplier and keep the Supplier indemnified against any loss, damage or liability to third parties incurred in relation to:
  - (i) registering or seeking the release of any document relating to the Supplier's Security Interest on the PPS Register; or
  - (ii) enforcing the Supplier's security Interest (including its legal costs, on a solicitor-Customer basis);
  - (h) it will give the Supplier at least 14 days written notice of any proposed change in its name, contact details, place of incorporation, address, location, nature of business, ownership, or business practice; and
  - (i) it irrevocably appoints the Supplier to be the Customer's attorney to do anything which the Customer agrees to do under these Terms and Conditions and anything which the attorney thinks desirable to protect the Suppliers Security Interest and the Customer will take all steps required to ratify anything done by the attorney under this clause.
- 7.3 To the extent permitted by law, the Customer waives its right to notice as a grantor under section 157 of the PPSA; acknowledging, that the collateral, subject of the Supplier's Security Interest is properly described as commercial property. To the extent that they impose any obligation on the Supplier or grant any right to the Customer and section 115(1) of the PPSA allows them to be excluded: sections 95, 118, 121(4), 125, 130, 132 (3), 132 (4), 135, 142, and 143 of the PPSA do not apply to this agreement or the Supplier's security interest in the Goods. To the extent, that Part 4.3 of the PPSA imposes any obligation on the Supplier or grants any right to the Customer and s.115(7) permits, its application pursuant to s.116(2) is excluded.
- 7.4 Notwithstanding the payment by the customer of part or all of the price relating to the Goods, the Supplier's Security Interest will continue in the Goods, any Proceeds of the Goods or other property, to which the Suppliers Security Interest may apply (by operation of these Terms and Conditions or statute) until the Suppliers Security Interest is discharged in writing by the Supplier.
- 7.5 The Customer will not do, or omit to do, nor allow to be done or omitted to be done, anything which might adversely affect the Suppliers Security Interest.
- 7.6 If the Customer sells the Goods, either in their original state or as part of a product, mass or whole to its customers, the Customer assigns to the Supplier and authorises the Supplier to sue in its name to recover the

## TERMS & CONDITIONS FOR THE SUPPLY OF GOODS

the benefit of any claim against its customers for the price of the Goods, the product, mass or whole, and in addition to its obligations under the PPSA, it shall hold on trust for the Supplier and account to the Supplier for the consideration and all Proceeds received in relation to the Goods, product, mass or whole.

7.7 This clause shall apply even though the Supplier may give credit to the Customer.

### 8. Right of Entry and Resale

8.1 Without limiting the rights or remedies available to the Supplier under these Terms and Conditions, statute (including under the PPSA) or other law, if the Customer;

- (a) (being a natural person) commits an act of bankruptcy;
- (b) (being a corporation) does anything which entitles anyone to apply to wind up the Customer or is subject to the appointment of an administrator or receiver and manager; or
- (c) breaches any of these "Terms and Conditions", (each of which is hereafter referred to as 'an act of default'), the supplier may take possession of and retain, resell or otherwise dispose of the Goods or any product, mass or whole, of which they form part.

8.2 To the extent permitted by law, in the event of any such act of default, the Customer authorises the Supplier to enter premises where the Goods may be located to take possession of the Goods or any product, mass or whole, of which they form part without notice to the Customer. The Customer shall indemnify the Supplier against all claims arising out of the entry by the Supplier into premises to take possession of the Goods or any product, mass or whole, of which they form part.

### 9. Return of Goods

9.1 The Supplier will not be obliged to accept any Goods returned by the Customer or allow any credit for them, unless:

- (a) PRIOR AUTHORISATION HAS BEEN GIVEN BY THE SUPPLIER – the customer needs to ring customer service for authorisation. This is required within seven (7) working days after the Supplier tendered delivery of the Goods to the Customer or the Customer collected the Goods
- (b) the Goods returned are accompanied by the Suppliers' packing reference and original invoice number;
- (c) the Goods are returned in the condition in which they were delivered or collected;
- (d) Delivery fees will be at the cost of the purchaser on all "Change of mind" orders
- (e) the Supplier in its absolute discretion agrees in writing to accept them. In the event that the Supplier permits the Customer to return the Goods that consent must be expressed in writing signed for on behalf of the Supplier and delivered to the usual place of business of the Supplier; and
- (f) the Supplier and the Customer agree that the Customer shall not be entitled in any circumstances to return Goods which the Supplier has especially acquired for and at the request of the Supplier.
- (g) a minimum 15% restocking and return fee will be applied. This may vary according to the size of the order.
- (h) Educating Kids are not liable for the loss of an item being returned. We recommend that you return goods using registered mail.
- (i) credit notes will only be issued when the goods have been received by Educating Kids and all above terms and conditions have been met.
- (j) Due to environmental considerations, Educating Kids does not pick-up goods deemed, at Educating Kids sole discretion, to be damaged or faulty beyond repair. The customer is responsible for disposal of these goods.

### 10. Liability

10.1 All conditions and warranties express or implied by law, statute, or otherwise, are excluded to the extent permitted by law. Where so permitted by law, the liability of the Supplier for the breach of a condition or warranty that cannot be excluded is limited, at the Supplier's option, to the replacement of the Goods or the supply of equivalent goods, or the cost of replacing the goods or acquiring equivalent goods.

10.2 The Customer must indemnify the Supplier, and the Supplier's officers, agents and employees, against claims in respect of personal injury or death, or loss of damage to any property, whether as a result of negligence, breach of statutory duty or otherwise, which arise out of, or are a consequence of any act or omission of the Customer.

10.3 So far as the law permits, the Supplier shall not be liable for any loss or damage, which may be suffered by the Customer for any reason including, but not limited to, delay, negligence or any act, matter or thing done or permitted or omitted to be done by the Supplier.

### 11. Charge

11.1 The Customer hereby charges separately:

- (a) all the Customer's freehold and leasehold interest in land, including land which the customer, after the date of this Agreement, obtains an interest in; an



## TERMS & CONDITIONS FOR THE SUPPLY OF GOODS

- (b) all of the Customer's personal property; as security for the performance by the Customer of its obligations to the Supplier under this Agreement and otherwise, including due payment to the Supplier of all moneys
- 11.2 The charges created by clause 11.1 are separate charges over the Customer's property and in the event that either charge is void or unenforceable then such charge will be severable from this Agreement and does not affect validity of the other charge.
- 11.3 If requested by the Supplier, the Customer must promptly deliver an executed mortgage, or such other instrument of security as the Supplier may require, in registrable form as additional security.
- 11.4 The Customer agrees to further to:
- (a) the Supplier lodging a caveat over the Customer's title to any freehold and leasehold interest in land; and to secure the Supplier's interest in the real property.
  - (b) Pay all stamp duty, registration fees and other costs (including legal costs) which the Supplier incurs in lodging, releasing or withdrawing a caveat.

### 12. Notice

- 12.1 Any notice to be given by the Supplier to the Customer may be given by facsimile, post or hand delivered to the Customer's business address on the Account Application or last known to the Supplier.
- 12.2 Any notice to be given by the Customer to the Supplier must be in writing by facsimile, post or hand delivered to the Supplier's business address on the Account Application or last notified in writing by the Supplier.
- 12.3 A notice:
- (a) given by facsimile shall be deemed to be given on the business day following it is sent;
  - (b) sent by pre-paid post shall be deemed to be given on the business day following the day on which it was posted; or
  - (c) delivered by hand shall be deemed given when delivered.

### 13. Entire Agreement

- 13.1 These Terms and Conditions, in addition to any written agreement between the Supplier and the Customer signed by an authorised representative of each party, constitute the entire agreement or contract between the supplier and the customer for the supply of Goods.
- 13.2 The Customer acknowledges that neither the Supplier nor anyone purporting to act on its behalf has made any representation or given any promise or undertaking which is not expressly set out in writing, whether as to the fitness of the Goods for any particular purpose or any other matter.
- 13.3 These Terms and Conditions may be varied by the Supplier with effect in relation to all Goods ordered after that variation by notice to the Customer of the Terms and Conditions, as proposed to be varied, in which case, unless advised otherwise in writing by the Customer to the Supplier, received within 7 days of despatch of the Supplier's notice, the Customer will be deemed to have accepted and be bound by those varied Terms and Conditions.
- 13.4 All the rights and remedies of the Supplier under these Terms and Conditions shall remain in full force and effect notwithstanding any neglect, forbearance or delay in enforcement by the Supplier and may only be waived expressly in writing.

### 14. Governing Law

These Terms and Conditions shall be governed by and construed in accordance with the laws of the state or territory nominated by the Supplier in which the Customer took delivery and in default of nomination in accordance with the laws of the state of New South Wales and the parties submit to the jurisdiction of the courts of the state or territory so nominated or in default of nomination, the courts of New South Wales.

## FOR OFFICE USE ONLY

SALES REP NAME	SALES REP NUMBER
CUSTOMER GROUP CODE (IF APPLICABLE)	CUSTOMER PRICE GROUP (IF APPLICABLE)
ASSIGNED CREDIT CONTROLLER	
ACCOUNT APPROVED	
APPROVED CREDIT LIMIT	TRADING TERMS
NCFO CREDIT LIMIT	
SIGNATURE OF CREDIT MANAGER	DATE

## PERSONAL GUARANTEE AND INDEMNITY AGREEMENT

Educating Kids Pty Ltd ABN 31 091 745 818 and its related entities

**WARNING: THIS IS AN IMPORTANT DOCUMENT. IF YOU DO NOT UNDERSTAND THIS DOCUMENT YOU SHOULD SEEK INDEPENDENT LEGAL ADVICE**

**IMPORTANT:** As part of your application for credit, this personal guarantee and indemnity agreement must be completed and signed by Directors, Sole Traders and Business Partners in the presence of Independent Witnesses (not Spouses/Partners or Family members). Spouses/Partners of all Directors, Sole Traders and Business Partners must sign as Guarantors in the presence of Independent witnesses where there is joint ownership of personal assets.

### A. Details of Guarantors

<b>Name:</b>	<b>Name:</b>
<b>Private Address:</b>	<b>Private Address:</b>

### B. IN CONSIDERATION of Educating Kids (hereafter called "the Credit Provider") agreeing to provide goods or credit or actually providing or continuing to provide good or credit, including any time or indulgence, to:

<b>Customer Name:</b>	<b>ABN/ACN:</b>
<b>Trading Name:</b>	
<b>Trading Address:</b>	

The Guarantor (or if more than one, each of the Guarantors jointly and severally) detailed above, who has signed this document below, agrees to guarantee to the Credit Provider the due and punctual performance by the Customer of all its obligations under the Credit Provider's Terms and Conditions of Supply of Goods (including any variation of them), as if the Guarantor(s) were the Customer, and to indemnify the Credit Provider against loss or damage in the event of default of the Customer in compliance with those Terms and Conditions of Supply of Goods.

And it is further agreed by each Guarantor (whether one or more), that:

1. If more than one guarantor is named, this Guarantee and Indemnity is not conditional upon its execution by more than one of the named guarantors and may be enforced against any of them, who has signed or otherwise executed it, jointly or severally as if that or those guarantor(s) were the only guarantor(s).
2. This Guarantee and Indemnity shall not otherwise be determined or discharged by reason of the liquidation (voluntary or otherwise), reconstruction, reconstitution, amalgamation with any other entity, death or bankruptcy of the Credit Provider, Customer or Guarantor(s) and shall continue to apply in relation to the rights and obligations under the Credit Provider's Terms and Conditions of Supply of Goods of their successors or assigns (to the extent law allows).
3. Each Guarantor shall not take any steps to recover or enforce a right or claim against the customer or apply rights over property of the Customer to the satisfaction of its obligations to the Credit Provider and shall not prove in any insolvency administration, bankruptcy or liquidation of the Customer unless or until all debts and obligations under the Credit Provider's Terms and Conditions of Supply of Goods of their successors or assigns (to the extent law allows).
4. If any payment made by or on behalf of the customer is alleged to be void or voidable by any liquidator or like officer of the Customer under any law related to insolvency each guarantor indemnifies the Supplier against any costs or losses it may incur in connection with such claim.
5. The Credit Provider may assign the benefit of this Guarantee and Indemnity at any time without the consent of or notice to the Customer or any Guarantor.
6. The Guarantor hereby charges with payment of any indebtedness to the Supplier all legal and beneficial interest (freehold or leasehold) in land and property, other than Personal Property to which the Personal Property Securities Act 2009 applies, held now or in the future by the Guarantor and upon non-payment of any monies due to the Supplier pursuant to this guarantee the Supplier may take possession of such land or property and exercise and do all or any acts, powers and authorities vested in or given to mortgages by any statutory provision or at common law or in equity. The Guarantor agrees that if demand is made by the Supplier, the Guarantor receiving such a demand will immediately execute a mortgage (incorporating the covenants contained in Memorandum No.Q860000 registered at the Land Titles Office in Sydney) or other instrument of security, or consent to a caveat, as required, and against the event that the Guarantor fails to do so within a reasonable time of being so

requested, the Guarantor hereby irrevocably and by way of security, appoints any credit manager or solicitor engaged by the Supplier to be its true and lawful attorney to execute and register such instruments. Notwithstanding any other provision in this clause and in addition thereto the Supplier may lodge a caveat noting the interest given by this charge on the title of any property of the Guarantor whenever it so wishes.

- Any notice or demand for the purposes of this Guarantee and indemnity shall be deemed to be duly made and given(a) to a guarantor, if it is forwarded in writing by ordinary pre-paid post to the Guarantor to be bound by it at the address of the Guarantor shown above or any other address given by the Guarantor to the Credit Provider, in which case it shall be deemed received by the Guarantor on the business day after posting, and (b) to the Credit Provider, if it is delivered to the Credit Provider at its registered office and received in writing by a duly authorised officer of the Credit Provider.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20

**SIGNED, SEALED AND DELIVERED BY**

**in the presence of:**

\_\_\_\_\_  
Signature of Guarantor

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Print name of Guarantor

\_\_\_\_\_  
Print name of Witness

\_\_\_\_\_  
\_\_\_\_\_

Address of Witness

**SIGNED, SEALED AND DELIVERED BY**

**In the presence of:**

\_\_\_\_\_  
Signature of Guarantor

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Print name of Guarantor

\_\_\_\_\_  
Print name of Witness

\_\_\_\_\_  
\_\_\_\_\_

Address of Witness