# APPLICATION FOR CREDIT ACCOUNT & TERMS OF TRADE

Limited Company □ Partnership □ Sole Trader □ Other □ (specify)……………………………………………………………………………..

Applicant Name

(full legal name, including partner or trustee names plus firm/trust name if applicable)

Registration Number (if applicable)

Trading Name

Nature of Business

Total Number of Years Trading

Postal Address

Phone Fax Email Mobile

Contact Name

**Name and Address of Directors/Owners/Partners**

Full Name Title Address Phone

**Account Information**

Bank Branch

Accounts Payable Contact Phone

Credit Amount Required

Preferred Payment Method

**Trade References** (Do not use Banks, Credit Cards, Government Departments or Service Stations)

## Company Name Contact Name Phone

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The Applicant named above irrevocably authorises the above persons to disclose to Parklink Limited(**"Company"**) and its agents any information requested about the Applicant or any person named in this application, including their credit history and related information. That information will be held, and may be disclosed, by the Company in accordance with the Company's terms ("**Terms of Trade**").

The Applicant: certifies that the information provided in this application is correct; acknowledges that the Applicant has received a copy of, and that the undersigned has on behalf of the Applicant read and understood, the Terms of Trade; and acknowledges and agrees that the applicable Terms of Trade and the credit terms set out below will exclusively apply whenever the Company supplies goods and/or services to the Applicant.

**Credit Terms:**

If the Company agrees to extend credit to the Applicant:

* All invoices must be paid in full, without any set-off or deduction, by the 20th day of the month following the date of the invoice (or by such other due date specified on the invoice), in the manner specified on the invoice. If any amount is not paid by the due date, among other things, default interest and enforcement costs are payable by the Applicant in accordance with the Terms of Trade.
* The Company may set, and from time to time at its discretion vary, the Applicant's payment terms and/or credit limit.
* The Company may in its sole discretion at any time require a guarantee(s) (on the terms provided for on the following page) and/or further security as a condition of providing or continuing to provide credit.
* If any breach or default event specified in the Terms of Trade occurs, the Company may (among other things) suspend or cancel the Applicant's credit account (in which cases all outstanding amounts will immediately be due and payable); suspend or terminate the supply of any or all goods and/or services (with the further consequences specified in the Terms of Trade); and/or refuse to make any further goods and/or services available to the Applicant.

Authorised Signatory Full Name Date Position

For and on behalf of the Applicant

**Guarantee**

*To be completed and signed by any person(s) specified by the Company*

1. The Guarantor, or (if there is more than one Guarantor) each Guarantor jointly and severally, unconditionally and irrevocably:
   * 1. guarantees to the Company:
        1. the due and punctual payment by the Applicant of all money (of whatever nature) which the Applicant (whether alone or with any other person) presently is, or at any time becomes, actually or contingently liable to pay to the Company (whether alone or with any other person) on any account whatsoever;
        2. the due performance and observance by the Applicant of all of its obligations (whether present or future) under or in connection with the Terms of Trade and/or the Credit Terms above; and
     2. undertakes to hold the Company fully and completely indemnified on demand against any loss, damage and liability occasioned by any failure of the Applicant to pay any amount to the Company, or perform any obligation owed to the Company, when due.
2. The liability of the Guarantor under this Guarantee shall be as primary obligor and not merely as surety and shall not be affected, impaired, or discharged by reason of any act, omission, matter or thing which but for this clause might operate to release or otherwise exonerate the Guarantor from any such liability, including (without limitation) any time or other indulgence granted by the Company to the Applicant.
3. This Guarantee is and shall at all times be a continuing security and shall cover the payment of the whole of the guaranteed payment and performance obligations, irrespective of any intermediate or partial payment or performance or any discharge in full or in part of such obligations. This Guarantee and the Guarantor's obligations under this Guarantee will remain in full force and effect until the execution by the Company of an unconditional discharge of all of the Guarantor's obligations under this Guarantee.

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Guarantor signature Full Name Relationship to Applicant Date

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Guarantor signature Full Name Relationship to Applicant Date

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Guarantor signature Full Name Relationship to Applicant Date

1. **Terms of Contract** 
   1. Any Services supplied by us to you shall be subject to the terms and conditions outlined in our Proposal (if applicable) and these Terms, which shall apply to the exclusion of any other agreements with you about the supply of the Services or Goods.
   2. Variations to the Proposal or these Terms are only effective if they are agreed in writing and signed by our authorised representative.
   3. Where there is any conflict between the Proposal and these Terms, the Proposal shall prevail.
2. **Our Responsibilities**
   1. We will make every effort to supply the Services on time. However, we shall not be liable to you for any failure to supply them on a specified date or within a specified period, however that failure was caused.
   2. Unless otherwise agreed with you, the Services shall be supplied during our normal business hours.
   3. Unless otherwise agreed in writing any quoted price may be altered prior to delivery of Goods or the provision of Services to the Customer, if we determine, at our discretion, that our costs have increased materially.
   4. In supplying the Services, it may be necessary for us to engage subcontractors. However, we will take full responsibility for their work, as if it had been done by us under these Terms.
3. **Your Responsibilities**
   1. You must:
      1. cooperate with us in all matters relating to the Services;
      2. provide us, and our agents, subcontractors and employees, in a timely manner, with all-weather access to your site, premises and other facilities as reasonably required by us to supply the Services;
      3. obtain and maintain all necessary resource and other consents in respect of the Services, and advise us of any conditions relating to them;
      4. locate, mark and advise us of all gas pipes, water pipes, sewerage lines, drainage lines, telephone cabling and other utilities at your site, together with any other matters and things at your site which might constitute a hazard;
      5. provide safe and secure storage at your site for materials and equipment we will use when we supply the Services; and
      6. comply with all other obligations, including any "Council Requirements" outlined in the Proposal.
   2. If we suspend work or are prevented from proceeding due to your failure to comply with any obligations outlined in clause 3.1, we may serve notice on you requiring rectification of such actions or default and failing such rectification within a reasonable period specified by us (being not more than 14 days) we may in addition to our other remedies, cancel our contract with you.
   3. You agree to indemnify us, on demand, against any costs, claims, demands, actions and liabilities incurred by us arising out of any failure to comply with your obligations under clause 3.1.
4. **Cancellation**
   1. You may not cancel all or any part of the Services without our written consent. If we consent, all charges due up to the date of consent are payable immediately.
   2. We may cancel or suspend all or any part of the Services without liability to you if:
      1. we reasonably believe that the information which you have given us in your application for credit account is not correct or no longer correct;
      2. you default under any agreement with us, become insolvent or commit any act of bankruptcy, a receiver, liquidator, administrator or statutory manager is appointed over any of your assets or undertaking or you make or attempt to make an arrangement or composition with your creditors; or
      3. supplying the Services becomes impracticable or uneconomic due to any cause beyond our control.
5. **Charges**
   1. Our charges for the Services are set out in the Proposal. Where no Proposal has been given, or the Services provided are in addition to those outlined in a Proposal, the relevant Services will be charged at our prevailing standard rates.
   2. Despite clause 5.1 above, we may vary our quoted charges:
      1. in the circumstances (if any) set out in the Proposal;
      2. if our costs increase between the date of the Proposal and our supply of the Services;
      3. if, in the course of the Services, we encounter contaminated soils or debris, or any of the items referred to in clause 3.1(d) above (except where you told us about them before the Proposal);
      4. if our supply of the Services is delayed by any default, act or omission on your part (or the part of your agents, employees or subcontractors);
      5. if we supply the Services outside our normal business hours; or
      6. if we agree to any variation to the Services.
   3. We may withdraw a Proposal before it is accepted and, in any event, a Proposal will lapse, without notice, 30 days after it is given.
   4. Unless otherwise agreed in writing, our charges are exclusive of GST, which will be charged to you at the prevailing rate.
6. **Payment**
   1. The basis of invoicing is set out in the Proposal.
   2. Where we have agreed to extend credit to you, invoices must be paid in full, without deduction or set off, within 20 days following the date of invoice. Your payment is made only when funds have fully cleared through the bank's system into our bank account.
   3. If full payment is not made by the due date, then without prejudice to any other rights or remedies available to us:
      1. we may cancel or suspend all or any part of the Services;
      2. we may charge interest on overdue monies on a daily basis at 5% per annum above the current overdraft rate charged by our bankers at that time, and interest shall continue to accrue both before and after judgment; and
      3. you will be responsible for all costs (including legal costs on a solicitor/client basis) incurred by us in recovering such monies.
   4. We may accept and apply payments from you in respect of any indebtedness, and we will not be bound by any conditions or qualifications attaching to the payments.
   5. Despite clauses 6.1 and 6.2 above or any agreement to the contrary, all payments shall become immediately due and payable in any of the circumstances set out in clauses 4.3(a) or (b) above.
7. **Security**
   1. Risk in respect of the Goods shall pass to you on delivery to your site. However, ownership in the Goods shall not pass to you on delivery, but will remain with us until we have received full payment, in cash or cleared funds, of all monies owing by you to us.
   2. Until all monies owing by you to us have been paid, our employees and agents may enter your site and recover the Goods, and you agree to indemnify us, on demand, against any liability incurred by us in our exercise of this right.
   3. As security for all of your obligations to us from time to time (including monies owing by you to us now and in the future), you grant us a security interest in respect of all your right, title and interest in all of your present and after acquired property (including real property, to the intent that a caveatable interest is created). You agree that any such property that comes into existence after the date of these Terms will come into existence subject to such security interest without the need for any further action by either you or us. You acknowledge that you have received valuable consideration from us, and agree that it is sufficient and attachment is immediate and is not postponed.
   4. You undertake to:
      1. do all acts and provide us on request all information we require to register a financing statement or financing change statement on the Personal Property Securities Register; and
      2. advise us immediately in writing of any proposed change in your name or other details on the Personal Property Securities Register.
   5. You:
      1. waive your right to receive a verification statement in respect of any financing statement or financing change statement relating to the security interests created under these Terms;
      2. agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these Terms and, with our agreement, contract out of such sections; and
      3. waive your rights and, with our agreement, contract out of your rights under sections 116, 120(2), 121, 125, 129 and 131 of the PPSA.
8. **Warranty and Liability**
   1. Subject to clauses 8.5 and 8.6 below, our liability under the Proposal and these Terms excludes and replaces all other warranties, conditions or obligations imposed or implied by common or statute law, usage or otherwise.
   2. We are not liable for any indirect or consequential loss or damage which you suffer.
   3. Our total liability in respect of all claims which you may have against us for the supply of the Services shall not exceed our charges for the Services.
   4. If you have a claim against us for which we may be liable under these Terms, you must write to us, giving full details of the claim, within two months of the date on which the claim arises. If you write to us within that time, we will investigate your claim. If you do not, we will not be liable in respect of that claim.
   5. We will, where we are able to do so, pass on the benefit of any manufacturer's guarantee for Goods.
   6. If the Consumer Guarantees Act 1993 applies, these Terms shall be read subject to your rights under that Act. Where you are acquiring the Services for the purposes of a business (as provided in sections 2 and 43 of that Act), that Act shall not apply.
9. **Force Majeure**

We are not liable for delay in performing or failure to perform our obligations under the Proposal or these Terms if that delay or failure results from anything beyond our reasonable control. Any such delay or failure will not be a breach of the Proposal or these Terms and the time for performance of our obligations will be extended by a period equal to that during which performance is prevented.

1. **Privacy**
   1. We may use any personal information that you give to us for credit, administration, service and marketing purposes. If you do not give this information, we may not be able to provide the Services.
   2. You authorise any person or company to give us such information as we may require in response to our credit and other enquiries.
   3. You understand that we may use a credit reporting agency to credit check you. In such case:
      1. the agency will give us information about you for that purpose;
      2. we will give your personal information to the agency, and the agency will hold the information on its systems and use it to provide their credit reporting service;
      3. when other customers use the service, the agency may give the information to those customers; and
      4. if you default in your payment obligations to us, information about the default may be given to the agency, and the agency may give the information to other customers.
   4. You have a right of access to, and may request correction of, your personal information.
   5. If the customer is a company, the word "you", where used in this clause 10, includes its directors and shareholders.
2. **General Terms**
   1. Amendments: We may amend these Terms from time to time by notice to you in writing.
   2. Waiver: No delay or failure by us to exercise our rights under these Terms operates as a waiver of those rights. A partial exercise of those rights does not prevent their further exercise in the future.
   3. Severability: If a court decides that part of these Terms is unenforceable, the part concerned shall be deleted from the rest of these Terms, which will then continue in force.
   4. Law: These Terms will be interpreted in accordance with and governed by the laws of New Zealand, and the New Zealand courts will have non-exclusive jurisdiction in respect of all matters between us. The parties hereby agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply to this contract.
3. **Defined Terms and Interpretation**
   1. In these Terms, the following words have the following special meanings:

"**Goods**" means goods and materials supplied by us to you at any time;

"**PPSA**" means the Personal Property Securities Act 1999;

"**Proposal**" means any proposal or quotation for the supply of the Services;

"**Services**" means all services supplied by us to you at any time and, except where the context otherwise requires, includes Goods;

"**Terms**" means these terms of trade (as amended from time to time);

"**we**", "**our**", "**us**" means Parklink Limited and any of its related companies (as defined in the Companies Act 1993) from time to time; and

"**you**" means (subject to clause 10.5 above) the customer named in the Proposal.

* 1. The terms and expressions used in clause 7 above have the special meanings given to them in, or by virtue of, the PPSA.
  2. For convenience, these Terms have been grouped under different headings, but the headings to not affect the meanings of these Terms.