

1. CUSTOMER ACCOUNT INFORMATION

This Credit Application relates to the supply of goods by OMS Pty Ltd ABN 85 630 660 909 ("Ocean Made") to the Customer named in this Credit Application and consists of:

- Part 1 - Customer Account Information
- Part 2 - Trade History and References
- Part 3 - Application for Credit
- Part 4 - Guarantee and Indemnity
- Part 5 - Terms and Conditions of Sale



Customer Name:.....
Sole Trader/Partnership/Company/Public Co./Inc./Assoc./Club/Nominee Co (Circle applicable structures)

Trading as.....

A.C.N. No. A.B.N. No.

Registered Office.....

Date of Registration / / Nature of Business

Trading/Delivery Address (not P.O. Box)

Postal Address..... Post Code.....

Business Phone..... Business Fax

Email:..... Mobile.....

Partners/Directors/Shareholders Full Names and Address (where Customer is a company):

Partner/Director/Shareholder 1

Full Name
(Surname) (Given Names)

Residential Address.....
(Street) (Town/Suburb)

.....
(State) (Postcode)

Occupation..... Phone No..... **Drivers Licence No. (copy to be attached)**.....

Partner/Director/Shareholder 2

Full Name
(Surname) (Given Names)

Residential Address.....
(Street) (Town/Suburb)

.....
(State) (Postcode)

Occupation..... Phone No..... **Drivers Licence No. (copy to be attached)**.....

Partner/Director/Shareholder 3

Full Name
(Surname) (Given Names)

Residential Address.....
(Street) (Town/Suburb)

.....
(State) (Postcode)

Occupation..... Phone No..... **Drivers Licence No. (copy to be attached)**.....

Partner/Director/Shareholder 4

Full Name
(Surname) (Given Names)
Residential Address
(Street) (Town/Suburb)
.....
(State) (Postcode)
Occupation..... Phone No..... Drivers Licence No. (copy to be attached).....

2. TRADE HISTORY AND REFERENCES

If Credit Account - Average Amount Requested Per Month \$

Names of Associated and/or Parent Companies

1. CURRENT TRADE REFERENCES (FOOD suppliers that the Customer currently holds a credit account with)

a. Name Address Phone
b. Name Address Phone
c. Name Address Phone

2. Has the Customer or any directors of the Customer ever been registered under any part of the bankruptcy act, been under any special financial arrangements with creditors or had legal proceedings instituted against you/them for payments or debits?

Yes/No (If yes give full details).....

Referral by

OFFICE USE ONLY

PAYMENT TERMS

(please tick box indicating payment terms)

- within seven (7) calendar days of the date of the invoice
- within fourteen (14) calendar days of the date of the invoice

1. Credit Register Checked? Yes No

2. Trade Reference Comments

a.
.....
b.
.....
c.
.....

3. Credit Limit

Approved by: Date:

3. APPLICATION FOR CREDIT

I/We of
Sole Trader/Partnership/Company/Public Co./Inc./Assoc./Club (Circle applicable structures)

of ("the Customer")
(Trading/Delivery Address – not PO Box)

1. hereby apply for a credit account with Ocean Made;
2. acknowledge that I/We have read and the Customer agrees to be bound by Ocean Made's terms and conditions of sale as attached to this Credit Application and/or determined by Ocean Made from time to time ("Terms and Conditions of Sale");
3. I/we agree to pay all invoices issued by Ocean Made within the agreed time frame (as indicated below) from the date set out in the invoice and in accordance with the Terms and Conditions of Sale;
4. warrant that all the information contained in this Credit Application is true and correct and indemnify Ocean Made from and against all damages, costs, actions, claims, liabilities and demands resulting from any misrepresentation in, or wilful omission from, this Credit Application;
5. warrant that the credit to be provided by Ocean Made to the Customer is to be applied wholly or predominantly for business purposes;
6. warrant that the trade references provided in this Credit Application relate to **commercial credit** obtained by the Customer;
7. acknowledge having received notice from Ocean Made that it may give a **credit reporting agency personal information** about us and this Credit Application in accordance with section 18E(8)(c) of the Privacy Act 1988 (Cth) ("**Act**");
8. authorise Ocean Made to obtain from a **credit reporting agency a credit report** containing personal information about us for the purpose of assessing our credit worthiness and collecting overdue payments;
9. authorise Ocean Made to give and obtain from **credit providers** named in a **credit report** issued by a **credit reporting agency** or named in this Credit Application or to give a person who is currently a guarantor or who is considering becoming a guarantor, information about our credit arrangements and understand that this information can include any information about our credit worthiness, credit standing, credit history or credit capacity that **credit providers** are allowed to give or receive from each other under the Act, including a **credit report**;
10. acknowledge and consent to Ocean Made giving a **credit reporting agency personal information** about us and this Credit Application (eg. the fact that the Customer has applied for credit and the amount and/or the fact that Ocean Made is a credit provider to the Customer). Words and phrases highlighted in bold and not defined in this Credit Application will have the meaning given to them in the Act;
11. acknowledge and agree that Ocean Made is authorised to debit the nominated credit card as set out in the "Customer Credit Card Details" section below ("Credit Card") for payment of all invoices issued by Ocean Made within the relevant payment terms period (as set out below);
12. confirm that the Credit Card cardholder (where the Credit Card is not issued in the name of the Customer) consents to Ocean Made debiting the Credit Card for all invoices issued by Ocean Made; and
13. acknowledge and agree that in the event that the Customer is a company, the directors and shareholders of such the Customer will execute the Guarantee and Indemnity attached hereto as a condition precedent to the Credit Application being approved by Ocean Made.

CUSTOMER CREDIT CARD DETAILS

Card Number

Expiry Date:.....

Cardholder Name:.....

Security Code (3digits on back of card):.....

The Cardholder authorises Ocean Made to debit the above Credit Card for payment of all invoices issued by Ocean Made to the Customer. By its signature, the Cardholder agrees to be bound by the terms of this Credit Application including the Terms and Conditions of Sale.

Signature of Cardholder:..... DATE:

4. GUARANTEE AND INDEMNITY

If the Customer is a company, each director and shareholder will need to sign this Guarantee and Indemnity.

TO: OMS Pty Ltd ABN 85 630 660 909 ("Ocean Made")

In consideration of Ocean Made at the request of:

(Name) _____ of (Address) _____

(Name) _____ of (Address) _____

(Name) _____ of (Address) _____

(Name) _____ of (Address) _____

as the guarantors ("Guarantor") agreeing to:

- supply or continue to supply goods to the customer named in the attached Credit Application ("Customer");
- provide credit to the Customer; and/or
- grant an indulgence to the Customer outside Ocean Made's agreed credit terms,

the Guarantor unconditionally and irrevocably:

1. guarantees to Ocean Made payment of all money payable by the Customer, and due and prompt observance and performance of all the Customer's obligations, under Ocean Made's Terms and Conditions of Sale (a current copy of which is attached to this Credit Application), whether now or in the future, and indemnifies Ocean Made against all loss, damage, costs and expenses suffered or incurred by Ocean Made in respect of any failure by the Customer to make any payment or perform any of its obligations under Ocean Made's Terms and Conditions of Sale ("**Guarantee and Indemnity**");
2. agrees that the Guarantee and Indemnity is not affected by:
 - a. any part payment of money or performance of obligations by the Customer;
 - b. Ocean Made granting any time, credit or indulgence to the Customer;
 - c. the liability of the Customer ceasing due to any cause;
 - d. any composition, compromise or arrangement made with Customer;
 - e. the release of the Customer or any Guarantor;
 - f. any change to Ocean Made's Terms and Conditions of Sale;
 - g. the death of the Customer or any Guarantor;
 - h. the Customer or any Guarantor becoming "bankrupt", "insolvent under administration" or an "externally administered body corporate" as each of these words and phrases are defined in the Corporations Act 2001 (Cth);
 - i. the Customer or any Guarantor becoming of unsound mind;
 - j. the transfer or sale of the Customer's business or shares in the Customer;
 - k. the Buyer entering into a composition or scheme of arrangement with its creditors;
 - l. any lack of power or defect in execution of this Deed by any Guarantor;
 - m. the availability to the Customer of any defence at law or in equity in respect of its liability under Ocean Made's Terms and Conditions of Sale and the Guarantor waives all such defences if any; or
 - n. Ocean Made for any reason not exercising all or any of its rights or powers against the Customer, or in respect of any other security or surety against which Ocean Made may claim to satisfy any liability of the Customer; or
 - o. anything which, but for this Clause 2, might determine, discharge or impair the Guarantee and Indemnity;
3. agrees that the Guarantee and Indemnity remains in force until all the Guarantor's obligations under this Deed have been satisfied;
4. agrees that Ocean Made may exercise its rights against the Guarantor at any time after the Customer fails to comply with its obligations under Ocean Made's Terms and Conditions of Sale, without Ocean Made first having to take any action or enforce any of its rights against the Customer;
5. agrees that, until the Customer has paid all money and performed all its obligations under Ocean Made's Terms and Conditions of Sale, the Guarantor will not:
 - a. prove in or against, or enforce any security held by the Guarantor against the Customer's estate or assets in competition with Ocean Made; or
 - b. deprive Ocean Made of any dividend or money it may receive or be entitled to receive as a creditor of the Customer;
6. agrees that the Guarantee and Indemnity :
 - a. is a principal obligation of the Guarantor;
 - b. is in addition to and not in substitution for any other rights which Ocean Made may have under Ocean Made's Terms and Conditions of Sale or otherwise at law or in equity;
7. agrees that where 2 or more persons are named as the Guarantor, this Deed is enforceable against each of them jointly and severally;
8. charges (and where this Deed is executed by more than 1 person the Guarantors joint and severally charge) with payment of all money due under the Guarantee and Indemnity as beneficial owner all freehold and leasehold interests in land and personal property which it now has or may acquire and, on demand by Ocean Made, agree to immediately execute a mortgage or other instrument or security or consent to a caveat as required;
9. agrees that words and phrases not defined in this Deed will have the meaning given to them in Ocean Made's Terms and Conditions of Sale;
10. agrees that in this Deed the singular includes the plural and if there is more than one Guarantor, their obligations are joint and several;
11. agrees that this Deed will be deemed to be made in the State in which Ocean Made's registered office is located and the Guarantor agrees to submit to the jurisdiction of appropriate court in that State;
12. agrees to execute and deliver all such deeds, documents and instruments and do all such acts and things as are necessary to give full effect to all of the agreements and arrangements contemplated by this Deed and the rights and obligations of the parties under this Deed; and
13. appoints Ocean Made, as its attorney to sign all documents and do all things Ocean Made considers reasonably necessary to comply with the Guarantor's obligations under this Deed, where the Guarantor has failed to do so within the timeframe required by Ocean Made.

**Executed as a Deed DATED :
Signed Sealed and Delivered**By _____
Partner/Director/Shareholder 1_____
Partner/Director/Shareholder 1 (Print Name)
in the presence of_____
Witness (Signature)_____
Witness (Print Name)_____
Witness (Address)

Driver's Licence No. _____

Signed Sealed and DeliveredBy _____
Partner/Director/Shareholder 3_____
Partner/Director/Shareholder 3 (Print Name)
in the presence of_____
Witness (Signature)_____
Witness (Print Name)_____
Witness (Address)

Driver's Licence No. _____

**Executed as a Deed DATED :
Signed Sealed and Delivered**By _____
Partner/Director/Shareholder 2_____
Partner/Director/Shareholder 2 (Print Name)
in the presence of_____
Witness (Signature)_____
Witness (Print Name)_____
Witness (Address)

Driver's Licence No. _____

Signed Sealed and DeliveredBy _____
Partner/Director/Shareholder 4_____
Partner/Director/Shareholder 4 (Print Name)
in the presence of_____
Witness (Signature)_____
Witness (Print Name)_____
Witness (Address)

Driver's Licence No. _____

**IT IS IMPORTANT ALL INFORMATION IS SUPPLIED, AS AN INCOMPLETE FORM
CANNOT BE PROCESSED AND MAY DELAY INDEFINITELY A DECISION.**

5. TERMS AND CONDITIONS OF SALE

Definitions

In these Terms and Conditions of Sale:

- "Customer" means the person named as customer in the Credit Application for the Customer and, where applicable, includes any servant, agent, partner, contractor or employee of that person;
- "goods" means goods supplied by Ocean Made to the Customer;
- "Ocean Made" means OMS Pty Ltd ABN 85 630 660 909 and, where applicable, includes any servant, agent, contractor or employee of that company.

Orders

The Customer, by ordering the goods, acknowledges and agrees that it is expressly contracting with Ocean Made on these Terms and Conditions of Sale and to be bound by the Terms and Conditions of Sale, unless otherwise agreed to by Ocean Made in writing and:

- these Terms and Conditions of Sale are current as at the date on which they are delivered to the Customer;
- Ocean Made may revise these Terms and Conditions of Sale and provide updated Terms and Conditions of Sale to the Customer; and
- any revisions of these Terms and Conditions of Sale will apply to orders made by the Customer after the date of notice.

The Customer must comply with the procedure set by Ocean Made for the placing of orders.

Ocean Made may, at its discretion, accept or refuse any order from the Customer.

Ocean Made will not be bound to supply any goods to the Customer until Ocean Made raises an invoice.

Pricing and Payment

Unless otherwise agreed in writing, all sales are made at Ocean Made's price at the time of delivery, including goods placed on back order which may be subject to price variations between order and delivery.

Ocean Made may require the Customer to order a minimum quantity or value of goods per order.

The price of the goods quoted by Ocean Made or on Ocean Made's price list is exclusive of GST. In addition to the price payable for the goods, the Customer must pay to Ocean Made, on demand, the GST payable in respect of the supply of those goods. For the purposes of these Terms and Conditions of Sale, "GST" has the same meaning as that word is given in the A New Tax System (Goods and Services Tax) Act 1999 (as amended).

Unless otherwise agreed in writing all prices are strictly net and the Customer must pay the full purchase price of the goods without deduction, set-off, withholding or counterclaim, as set out on Ocean Made's invoice and within the period set out in that invoice.

Delivery

The Customer will be responsible for all costs associated with delivery, including freight, insurance and other charges arising from the point of dispatch of the goods to the Customer to the point of delivery.

The Customer will provide reasonable and proper access to the location specified for delivery. A completed drivers manifest or delivery docket whether signed by the driver or by the Customer or its employee or agent will be proof of delivery of goods invoiced. If the delivery location is unattended, delivery will be deemed to have been made in accordance with the Customer's order by leaving the goods at the location with a delivery docket, at which point the Customer becomes responsible for the goods.

Ocean Made will in all cases be entitled to choose the method of transport of the goods and the Customer authorises Ocean Made to subcontract delivery in its absolute discretion.

Where a delivery date is specified, Ocean Made will endeavour to deliver the goods on the due date. Ocean Made may unilaterally delay or suspend any delivery for any period or deliver the goods ordered by instalments (in which case each instalment is considered a separate agreement for sale) or cancel any agreement for sale without any liability whatsoever. The Customer will not reject delivery of any goods due to a delay in their delivery or if delivered in instalments.

No purported cancellation or suspension of an order or any part by the Customer is binding on Ocean Made after that order has been accepted by Ocean Made.

To the extent permitted by law, the Customer must notify Ocean Made of any shortages in orders within 24 hours of delivery, otherwise the Customer will be deemed to have accepted the order.

Risk and Insurance

The risk in the goods and all insurance responsibility for theft, damage or otherwise in respect of the goods will pass to the Customer immediately on the goods being dispatched from Ocean Made's premises.

The Customer assumes all risk and liability for loss, damage or injury to persons or to property of the Customer, or third parties arising out of the use or possession of any of the goods sold by Ocean Made, whether such goods are used singularly, or in combination with other goods, substances, or any process.

Returns and Warranty

Ocean Made warrants its products to be free from defects in material and workmanship but, to the extent permitted by law:

- goods will only be accepted for replacement or return (if applicable) and, if the goods are not replaced, a credit to the account of the Customer for their invoice price if:
 - the Customer notifies Ocean Made within 24 hours of delivery if goods supplied were not ordered or are not of merchantable quality or not fit for the purpose required ("defective goods"); and
 - after examination by Ocean Made, the goods are deemed to be defective goods;
- otherwise the Customer will be deemed to have accepted the order;
- Ocean Made will not accept return of, or give a credit for, any specially ordered goods;
- if Ocean Made reasonably considers that goods returned by the Customer are not defective goods, the Customer must pay for their return to the Customer;
- if a dispute arises (including as to the quality of the goods), the Customer must accept and pay for the goods and settle any claim with Ocean Made at a later date;
- despite this clause, if the Customer rejects the goods then Ocean Made will be able to sell such goods without prejudice to any claim Ocean Made may have against the Customer for damages or any other rights or remedies of Ocean Made.

Liability

To the extent permitted by law:

- any advice, recommendation, information or representation provided by Ocean Made as to the quality or performance of the goods or their suitability for a particular purpose or otherwise in relation to the goods is given in good faith but without any liability or responsibility on the part of Ocean Made;
- the Customer acknowledges that it has not relied upon or been induced by any representation of Ocean Made;
- except as specifically set out in these Terms and Conditions of Sale, or contained in any warranty or statement provided with the goods, any term, condition or warranty in respect of the quality, merchantability, fitness for purpose, condition, description, assembly, manufacture, design or performance of the goods, whether implied by statute, common law, trade usage, custom or otherwise, is hereby expressly excluded;
- replacement or repair of the goods is the absolute limit of Ocean Made's liability howsoever arising under or in connection with the sale, use of, storage or any other dealings with the goods by the Customer or any third party;
- Ocean Made is not liable for any indirect, consequential, special, economic or punitive losses or expenses suffered by the Customer or any third party, howsoever caused, including loss of turnover, profits, business or goodwill or any liability to any other party;
- Ocean Made will not be liable for any loss or damage suffered by the Customer where Ocean Made has failed to meet any delivery date or cancels or suspends the supply of goods.

Nothing in the Terms and Conditions of Sale is to be interpreted as excluding, restricting or modifying or having the effect of excluding, restricting or modifying the application of any laws applicable to the sale of goods which cannot be excluded, restricted or modified.

Passing of Property

Property in the goods will remain with Ocean Made and will not pass to the Customer until such time when the Customer pays all monies owing to Ocean Made by the Customer, on all accounts (which payments are not to any extent subsequently claimed or clawed back by any person standing in the place of or representing the Customer). While the goods remain the property of Ocean Made, the Customer agrees with Ocean Made that:

- the Customer holds the goods as fiduciary bailee and agent for Ocean Made;

- the Customer will keep the goods separate from its goods so that they are readily identifiable as the property of Ocean Made;
 - the Customer will not dispose of the goods except with Ocean Made's prior written consent or in the ordinary course of the Customer's business;
 - the Customer will hold the proceeds of any sale of the goods on trust for Ocean Made in a separate account however failure to do so will not affect the Customer's obligation to deal with the proceeds as trustee and will pay such monies immediately on request to Ocean Made;
 - the Customer will not cause the goods to lose their identifiable character or be intermingled with other goods, in any way, either by any process of its own or by a third party, except with Ocean Made's prior written consent or in the ordinary course of the Customer's business;
 - the money received for the sale of any intermingled goods, which contain the goods of Ocean Made, will be held in trust for Ocean Made (to the maximum extent that such "trust" monies represent the total outstanding debt owed to Ocean Made on all accounts by the Customer (and will pay such monies immediately on request to Ocean Made);
 - the Customer has no right or claim to any interest in the goods to secure any liquidated or unliquidated debt or obligation Ocean Made owes to the Customer;
 - the Customer cannot claim any lien over the goods;
 - the Customer will not create any absolute or defeasible interest in the goods in relation to any third party, except with Ocean Made's prior written consent;
 - pending payment in full for all amounts owed by the Customer to Ocean Made on all accounts, the Customer:
 - must not allow any person to have or acquire any security interest in the goods;
 - must insure the goods for their full insurable or replacement value (whichever is higher) with an insurer licensed or authorised to conduct the business of insurance in the place where the Customer carries on business;
 - must not remove, deface or obliterate any identifying mark or number on any of the goods.
- If the Customer fails to pay for any goods within the period of credit extended by Ocean Made to the Customer:
- Ocean Made may without notice and without incurring any liability to the Customer or any other person, enter any premises where it suspects the goods may be and remove them, notwithstanding that they may have been attached to other goods not the property of Ocean Made, and for this purpose the Customer irrevocably licences Ocean Made to enter such premises and also indemnifies Ocean Made from and against all costs, claims, demands or actions by any party arising from such action; and
 - if required, the Customer will assign to Ocean Made any rights of the Customer to any outstanding money relating to the re-supply of the goods. The Customer irrevocably appoints Ocean Made or its nominee as its attorney to sign all documents and do all things necessary to assign the debts to Ocean Made under this clause, where the Customer has failed to do so within 7 days of receiving written notice to do so, and ratifies any acts the attorney lawfully does or causes to be done with respect to any such assignment of debts.

Security

The Customer by ordering the goods from Ocean Made, grants the Security Interest to Ocean Made and enters into the Security Agreement with Ocean Made, in which case:

- the Customer acknowledges and agrees that the goods are inventory;
- the Customer must, as and within the timeframe notified by Ocean Made, sign all documents and do all things necessary in order to:
 - enable Registration with respect to the Security Interest and for that Registration to continue until such time as all of the Customer's obligations under the Security Agreement have been satisfied, including providing the Customer's details and any serial numbers required for Registration;
 - ensure that the Security Interest has priority over all other security interests in the Personal Property, whether registered, perfected or otherwise and whether created or arising before or after the creation of the Security Interest, except those security interests which Ocean Made agrees will have priority over the Security Interest or which by law have priority over the Security Interest;
 - ensure that Ocean Made is able to Enforce the Security Interest until such time as all of the Customer's obligations under the Security Agreement have been satisfied and the Customer must not do anything which affects Ocean Made's ability to Enforce the Security Interest;
- Ocean Made may exercise its rights in relation to the Security Interest any time after the Customer fails to comply with its obligations under the Security Agreement;
- to the extent permitted by the PPSA, the Customer waives its rights to receive any notices, statements or forms required to be issued or which would ordinarily be issued, whether by Ocean Made or any other person, to the Customer under the PPSA;
- the Customer must pay to Ocean Made on request, all Ocean Made's expenses, including legal costs, stamp duty and registration fees, in connection with the Security Agreement and the grant of the Security Interest, Registration with respect to the Security Interest and release of the Security Interest;
- where permitted under the PPSA or any other relevant law, the provisions contained in the Security Agreement will prevail over the PPSA or any other relevant law, to the extent of any inconsistency;
- the Customer irrevocably appoints Ocean Made, as its attorney to sign all documents and do all things Ocean Made considers reasonably necessary to comply with the Customer's obligations under the Security Agreement, where the Customer has failed to do so within the timeframe required by Ocean Made or the PPSA and ratifies any acts the attorney lawfully does or causes to be done under the Security Agreement;
- in these Terms and Conditions of Sale, unless the context otherwise requires:
 - "Enforce" means exercise all of Ocean Made's rights, under the Security Agreement or otherwise, in relation to the Security Interest;
 - "Personal Property" if the PPSA applies, means all the Customer's present and after-acquired Personal Property and includes all of the Collateral and any other assets, property and rights over which the Security Interest is permitted by law, and, where applicable, includes the proceeds from the sale of any of the Personal Property;
 - "PPSA" means, where the goods are supplied to a customer in:
 - Australia, the Personal Properties Securities Act 2009 (Cth) and the Personal Property Securities Regulations 2010 (Cth); or
 - New Zealand, the Personal Properties Securities Act 1999;
 - "Registration" means registration of the Security Interest on the Register to enable the Security Interest to have priority in accordance with the Security Agreement;
 - "Security Agreement" means the agreement between the Customer and Ocean Made that creates or evidences the Security Interest, including these Terms and Conditions of Sale;

- "Security Interest" means a "security interest" (as defined in the PPSA) granted by the Customer in the Customer's Personal Property to Ocean Made under the Security Agreement to secure payment of all money by the Customer and performance of all the Customer's obligations under the Security Agreement and, includes a purchase money security interest; and
- "Customer" includes the meaning given to "grantor" under the PPSA in Australia or "debtor" under the PPSA in New Zealand;
- words and phrases not defined in these Terms and Conditions of Sale will have the meaning given to them in the PPSA.

Default

If the Customer:

- fails to make any payment in accordance with these Terms and Conditions of Sale;
 - fails to comply with any of these Terms and Conditions of Sale;
 - being an individual, becomes bankrupt, dies or becomes mentally or physically incapable of managing their affairs;
 - being a corporation, passes a resolution for winding up or liquidation or enters into any composition or arrangement with creditors or if a receiver including a provisional receiver, or receiver and manager, trustee or administrator is appointed for any property or assets or becomes liable to be wound up by reason of insolvency or if any petition is presented for its winding up;
 - has execution levied against it; or
 - ceases or threatens to cease carrying on a business;
- then the Customer will be in default under these Terms and Conditions of Sale and Ocean Made may, without prejudice to any other remedy available to it under these Terms and Conditions of Sale or in law or equity do one or more of the following:
- charge the Customer interest on any sum due at the prevailing rate pursuant to the Penalty Interest Rates Act 1983 (Vic), calculated daily, for the period from the due date until the date of payment in full;
 - immediately recover possession of any goods not paid for in full (and the Customer authorises, or will procure relevant authority for, Ocean Made or its agents);
 - charge the Customer for, and the Customer must indemnify Ocean Made from, all costs and expenses (including without limitation all legal costs and disbursements on an indemnity basis) incurred by it resulting from the default or in taking action to enforce compliance with the Terms or to recover any goods;
 - cease or suspend for such period as Ocean Made thinks fit, supply of any further goods to the Customer;
 - by notice in writing to the Customer, suspend or terminate any contract with the Customer so far as unperformed by Ocean Made;
 - require the payment of cash before or on delivery of any further goods;
 - require that all money owing to Ocean Made, regardless of the due date, become immediately due and payable; and/or
 - sue the Customer for breach of contract,
- without effect on the accrued rights of Ocean Made under any contract.

Miscellaneous

The termination of any contract between Ocean Made and the Customer will not:

- relieve the Customer of their obligations to pay any money due under these Terms and Conditions of Sale; or
- affect any provision contained in these Terms and Conditions of Sale which expressly or by implication is to become operative or continue to operate after the contract is terminated.

The Customer agrees that all contracts made with Ocean Made will be deemed to be made in the State in which Ocean Made's registered office is located and the Customer agrees to submit to the jurisdiction of appropriate court in that State. The provisions of these Terms and Conditions of Sale will be separate and severable from each other to the extent that if any provision or provisions are unenforceable they will be read down so as to be enforceable or, if it cannot be so read down, they will be severed from these Terms and Conditions of Sale without affecting the enforceability of the remaining terms.

Failure by Ocean Made to enforce any of these Terms will not be construed as a waiver of any of Ocean Made's rights.

All notices, requests, consents, approvals, reports, offers or other communications (**Communications**) given under these Terms and Conditions of Sale must be in writing and:

- delivered personally, by prepaid post, email or facsimile transmission to the party's last known street or postal address, email address or facsimile number; and
- will be considered to have been received if:
 - delivered personally, on delivery;
 - sent by prepaid post, on posting, notwithstanding that it may subsequently be returned through the Post Office unclaimed;
 - sent by facsimile transmission, on production of a transmission control report indicating transmission without error; or
 - sent by email, on receipt by the sender of confirmation on its computer that the message has been delivered.

Unless the context indicates otherwise, a reference in these Terms and Conditions of Sale to:

- the singular includes the plural and vice versa;
- any agreement, warranty, representation or obligation which binds or benefits 2 or more persons, binds or benefits those persons jointly and severally;
- a person includes corporations all bodies and associations corporate or unincorporated and vice versa;
- "includes" means "includes without limitation" or "including" means "including without limitation";
- "\$" or "dollars" is a reference to the lawful currency of Australia.

No agent, employee or representative of Ocean Made will have any authority whatsoever to bind Ocean Made to any affirmation, representation, warranty or condition concerning the goods sold under these Terms and Conditions of Sale unless such affirmation, representation, warranty or condition is specifically included in writing within these Terms and Conditions of Sale.

Privacy

Ocean Made is bound by the Privacy Act 1988 and takes steps to ensure that all personal information obtained in connection with the Customer will be appropriately collected, stored, used, disclosed and transferred in accordance with the National Privacy Principles. Such information may be accessed by request to Ocean Made in accordance with the Privacy Act.

Ocean Made requires that the Customer comply with the National Privacy Principles in connection with any personal information supplied to it by Ocean Made in connection with this Agreement.

