



**KEEP MOVING**

**Complete Track & Undercarriage Solutions**

# **Credit Application**

**TKV Group**  
**MELB SYD BRIS TWBA**  
**P. 1300 65 11 43**  
**E. [accounts@tkv.com.au](mailto:accounts@tkv.com.au)**



## APPLICATION FOR CREDIT ACCOUNT AND AGREEMENT

PLEASE RETURN THIS SIGNED CREDIT APPLICATION TO EMAIL: [accounts@tkv.com.au](mailto:accounts@tkv.com.au)  
AND RETURN ORIGINAL BY POST TO PO BOX 624, BEACONSFIELD VIC 3807

Tuff Stuff Australia Pty Ltd trading as TKV Group (the Company) and (the Client) as named below understand this is a contract and the document comprises the credit application and the Company's terms and conditions attached to it. This application may include a guarantee/s which must be completed in full in order to process this application. If you sign this document you will be bound by its terms. You should read the terms of this document carefully and seek legal advice about its terms.

I/We hereby apply for a Credit Account and submit the following information

Business Structure	<input type="checkbox"/> SOLE TRADER / PARTNERSHIP	<input type="checkbox"/> TRUSTEE COMPANY	<input type="checkbox"/> PRIVATE COMPANY	<input type="checkbox"/> PUBLIC COMPANY
Date Business established	_____	ABN _____	ACN _____	
Company Name	_____			
Trading Name(s)	_____			
Trading Address	_____			
	Suburb _____		Post Code _____	
Postal Address	_____			
	Suburb _____		Post Code _____	
Business Phone	_____	Business Fax _____	Mobile _____	
Email Address	_____			

### DETAILS OF ALL DIRECTORS / OWNERS

Personal details of all registered proprietors of the trading name: *(if more than 3 please attach details of extra proprietors)*

1.	Full Name _____	Home Phone: _____	D.O.B _____
	Residential Address _____		Post Code _____
2.	Full Name _____	Home Phone: _____	D.O.B _____
	Residential Address _____		Post Code _____
3.	Full Name _____	Home Phone: _____	D.O.B _____
	Residential Address _____		Post Code _____

### CREDIT DETAILS

Estimated amount of credit per month \$ \_\_\_\_\_

**ALL accounts are strictly 30 days from end of month**

Persons to contact regarding payment of the account:

1.	Name _____	Position _____	Phone _____
	Email _____		
2.	Name _____	Position _____	Phone _____
	Email _____		

## APPLICATION FOR CREDIT ACCOUNT AND AGREEMENT

### TRADE REFERENCES

Please list three references with which you have a credit account with. By listing a reference you authorise us to contact them to discuss your trading history and to verify your details.

1.	Business Name _____	Date account opened _____
	Contact Name _____ Phone: _____	Fax _____
	Trading Address _____	Post Code _____
	Email _____	
2.	Business Name _____	Date account opened _____
	Contact Name _____ Phone: _____	Fax _____
	Trading Address _____	Post Code _____
	Email _____	
3.	Business Name _____	Date account opened _____
	Contact Name _____ Phone: _____	Fax _____
	Trading Address _____	Post Code _____
	Email _____	

### DECLARATION BY/FOR AND ON BEHALF OF THE APPLICANT/S / CLIENT (Please read carefully before signing)

- I/We declare and warrant that the applicant/s are neither bankrupt nor insolvent and have not committed any act of bankruptcy nor traded whilst insolvent within the previous 3 years.
- I/We authorise the Company to conduct such credit and financial checks on the Client (and any guarantors) as deemed necessary at any time, and consent to such checks for the purposes of the Privacy Act 1988 (Cth), and consent to disclosure of such information to a credit reporting or recovery agents.
- I/We acknowledge and agree to the *Terms and Conditions* that accompanies this Application for Credit and agree to be bound by the *Terms and Conditions of Sale* upon signing the document.
- I/We acknowledge that the Client and each of the Guarantors have received a complete and legible copy of this Agreement and Terms and Conditions before signing it.
- I acknowledge and warrant that I am duly authorised to sign and make this application.

#### Signature of Director / Applicant # 1

I witnessed Applicant # 1 sign this document on the date indicated:

.....  
Signature Date

.....  
Signature of Witness Date

.....  
Name (please print)

.....  
Name of Witness (please print)

#### Signature of Director / Applicant # 2

I witnessed Applicant # 1 sign this document on the date indicated:

.....  
Signature Date

.....  
Signature of Witness Date

.....  
Name (please print)

.....  
Name of Witness (please print)



## PERSONAL DIRECTOR'S GUARANTEE (REQUIRED FOR PTY LTD COMPANIES AND TRUSTS)

This Guarantee is made on: \_\_\_\_\_ (insert full date)

**BETWEEN THE SUPPLIER:** Tuff Stuff Australia Pty Ltd trading as TKV Group. Address: 25-27 Apollo Drive, Hallam, VIC 3803.

**AND THE GUARANTOR:**

\_\_\_\_\_  
Guarantor Full Name

\_\_\_\_\_  
Guarantor D.O.B

\_\_\_\_\_  
Full Residential Address

\_\_\_\_\_  
Home Phone

\_\_\_\_\_  
Mobile Phone

\_\_\_\_\_  
Email

### RECITALS

The Supplier and the Customer identified below have entered into an *on-going supply agreement* that commenced with a **Credit Application** submitted by the Customer on ...../...../....., and in consideration of the Supplier agreeing at the request of the Guarantor to supply goods and services to the Customer, the Guarantor hereby grants this Deed of Guarantee, Indemnity and Charge and agrees as follows:

**THE CUSTOMER:**

\_\_\_\_\_  
Full Business/Company Name

\_\_\_\_\_  
A.C.N

\_\_\_\_\_  
Full Trading Address

### TERMS OF THE GUARANTEE

#### 1. Definitions and interpretation.

- 1.1 References to laws include regulations, instruments, by-laws, and all other subordinate legislation or orders made by any authority with jurisdiction in respect of this Guarantee.
- 1.2 If any part of this Guarantee is found to be void, unlawful or unenforceable then that part will be deemed to be severed from the document and the severed part will not affect the validity and enforceability of any remaining provisions.
- 1.3 The laws of the State of Victoria apply to this Guarantee, and the parties submit to the exclusive jurisdiction of the Courts of Victoria.
- 1.4 Any change to this Guarantee **MUST BE IN WRITING AND SIGNED** by both parties.
- 1.5 An obligation imposed by this Guarantee on or in favour of more than one person binds or benefits all of them jointly and each of them individually.
- 1.6 The use of one gender includes the other and the singular includes the plural and vice versa.
- 1.7 This Guarantee is ongoing and binds that person's legal personal representative/executor.

#### 2. General

2.1 The undersigned Guarantor hereby:

- (a) Guarantees the due performance and obligations of the Customer to the Supplier and to be subject to and agrees to be bound by all terms and conditions contained in the agreement between them;
- (b) Indemnifies and agrees to keep indemnified the Supplier from and against any and all damages, cost, losses and expenses which the Supplier may suffer or incur in any way out of or consequent upon or rising directly or indirectly out of the Agreement between the Supplier and the Customer, including costs and legal fees on a solicitor and own client basis;
- (c) Acknowledges that the liability of the Guarantor will not be affected by the granting of time or other indulgence or concession to the Customer, or by the compromise, release, abandonment, waiver, variation, relinquishment or renewal of any of the rights of the Company against the Customer or by any neglect or omission relating to sureties which would or might but for this provision release the Guarantor from their obligations;

- (d) Acknowledges and agrees that the Supplier is at liberty to act as though the Guarantor is the primary debtor jointly and severally liable with the Customer, and the Guarantor waives all rights either at law or in equity or under any statute that the Guarantor might otherwise be entitled to claim or enforce as a defence to any action brought by the Supplier;
- (e) Acknowledges that payment of Goods and Services Tax imposed by the Supplier by reason of supply of goods and services or both to the Customer shall also be guaranteed by the Guarantor.
- (f) I authorise the Supplier to conduct such credit and financial checks as deemed necessary at any time, and consent to such checks for the purposes of the Privacy Act 1988 (Cth), and consent to disclosure of such information to a credit reporting or recovery agents.

#### 3. Charge

- 3.1 For the purpose of securing payment to the Supplier of all monies owing to it by the Customer, the Guarantor:
  - (a) Hereby charges all of his/her beneficial interest in any real property in favour of the Supplier whether or not a demand has been made on the Customer or the Guarantor;
  - (b) Agrees and consents to the Supplier registering a caveat over real property owned by the Guarantor to secure monies owing to the Supplier.

#### 4. Warranties

- 4.1 The Guarantor gives the following warranties in the knowledge that the Supplier has relied on them in entering into this Deed of Guarantee:
  - (a) That the Guarantor has read and understood this Deed;
  - (b) That the Supplier has afforded the Guarantor full and unrestricted opportunity of seeking independent legal advice on the Guarantor's obligations under this Deed prior to the signing of this Deed;
  - (c) That the Guarantor has sought and obtained such legal and accounting advice as they may have required before executing this Deed.

**Please read carefully before signing and seek independent legal advice about the terms of this document**

**IN WITNESS THEREOF THIS DEED HAS BEEN EXECUTED ON THE DATE SET OUT ABOVE.**

Signed, sealed and delivered by **the Guarantor** in the presence of:

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

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

\_\_\_\_\_  
Date

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

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

\_\_\_\_\_  
Date

**TKV Group**  
ABN 33 159 165 303

25-27 Apollo Drive, Hallam VIC 3803  
PO Box 624 Beaconsfield VIC 3807  
E [accounts@tkv.com.au](mailto:accounts@tkv.com.au)

P 1300 65 11 43  
D 03 9709 2333

# TERMS AND CONDITIONS OF SALE

1. **Interpretation**
    - 1.1 In these Terms unless the contrary intention appears:
      - (a) Additional Charges includes all delivery, handling and storage charges, goods and services tax, stamp duty, interest, legal and other costs of recovery of unpaid money and all other government imposts and all money, other than the Purchase Price, payable by the Customer to the Company arising out of the sale of the Goods.
      - (b) Customer means the person to or for whom the Goods are to be supplied by the Company.
      - (c) Goods means the goods sold to the Customer by the Company and includes any services provided by the Company to Customer.
      - (d) Intellectual Property Right means any patent, registered design, patent, trademark, copy-right, trade secret or any other proprietary right of a third party or parties, registered or unregistered, in any country.
      - (e) Company means Tuff Stuff Australia Pty Ltd T/A TKV Group ABN 33 159 165 303.
      - (f) PPSA means the Personal Property Securities Act 2009 (Cth).
      - (g) Purchase Price means the list price for the goods as charged by the Company at the date of delivery or such other price as may be agreed by the Company and the Customer prior to delivery of the Goods.
  2. **Order for Goods**
    - 2.1 An order given to the Company is binding on the Company and the Customer, if:
      - (a) a written acceptance is signed for or on behalf of the Company; or
      - (b) the Goods are supplied by the Company in accordance with the order.
    - 2.2 An acceptance of the order by the Company is then to be an acceptance of these Terms by the Company and the Customer and these Terms will override any conditions contained in the Customer's order. The Company reserves the right to accept a part only of any order by notifying the Customer in writing or by delivering the Goods to the Customer. No order is binding on the Company until accepted by it.
    - 2.3 An order which has been accepted in whole or in part by the Company cannot be cancelled by the Customer without obtaining the prior written approval of the Company, which it may refuse in its absolute discretion.
  3. **Delivery**
    - 3.1 The times quoted for delivery are estimates only and the Company accepts no liability for failure or delay in delivery of Goods. The Customer is not relieved of any obligation to accept or pay for Goods by reason of any delay in delivery. Goods may be delivered by instalments at the discretion of the Company.
    - 3.2 Risk in accepting the Goods passes on delivery to the Customer.
    - 3.3 Return of Goods will not be accepted by the Company except by prior agreement in writing with the Company. Any Goods returned will be subject to a restocking charge of 10% of the Purchase Price of those Goods.
  4. **Retention of Title**
    - 4.1 Ownership, title and property of the Goods remains with the Company until payment in full for the Goods and all sums due and owing by the Customer to the Company on any account has been made. Until the date of payment:
      - (a) the Customer has the right to sell the Goods in the ordinary course of business;
      - (b) until the Goods have been sold by the Customer in the ordinary course of the Customer's business, the Customer holds the Goods as bailee for the Company;
      - (c) the Goods are always at the risk of the Customer.
    - 4.2 The Customer is deemed to be in default immediately upon the happening of any of the following events:
      - (a) if any payment to the Company is not made promptly before the due date for payment;
      - (b) if the Customer ceases to carry on business or stops or suspends payment or states its intention of so doing or is unable to pay its debts as they fall due or if any cheque or bill of exchange drawn by the Customer payable to the Company is dishonoured;
    - 4.3 In the event of a default by the Customer, then without prejudice to any other rights which the Company may have at law or under this agreement:
      - (a) the Company or its agents may without notice to the Customer enter the Customer's premises or any premises under the control of the Customer for the purposes of recovering the Goods.
      - (b) the Company may recover and resell the Goods;
      - (c) if the Goods cannot be distinguished from similar Goods which the Customer has or claims to have paid for in full, the Company may in its absolute discretion seize all goods matching the description of the Goods and hold same for a reasonable period so that the respective claims of the Company and the Customer may be ascertained. The Company must promptly return to the Customer any goods the property of the Customer and the Company is in no way liable or responsible for any loss or damage to the Goods or for any loss, damage or destruction to the Customer's business howsoever arising from the seizure of the Goods.
    - 4.4 In the event that the Customer uses the Goods in some manufacturing or construction process of its own or some third party, then the Customer must hold such part of the proceeds of sale of such manufacturing or construction process as relates to the Goods in trust for the Company. Such part will be an amount equal in dollar terms to the amount owing by the Customer to the Company at the time of the receipt of such proceeds. The Customer will pay the Company such funds held in trust upon the demand of the Company.
  5. **Payment**
    - 5.1 The Client agrees to pay all amounts due in clear funds within the Company's agreed timeframe but no later than 30 days from the end of month. The Client agrees that if it fails to pay in accordance with this clause, the Company may:
      - (a) Charge a late payment fee of 5% on all amounts paid after the due date;
      - (b) Charge interest at the rate of 2% per month or part of a month from the expiry of that period until the date payment is received by the Company.
      - (c) Charge a dishonour handling fee in the amount of \$95.00;
      - (d) Recover all collections costs and expenses incurred in collecting overdue accounts on an indemnity basis;
      - (e) Withhold supply;
      - (f) Sue for the money owing on the goods or services provided.
- In the event where this agreement has been entered into by more than one party each party shall be jointly and severally liable for any amounts overdue.
6. **Default**
    - 6.1 If the Client:
      - (a) Fails to pay for any goods or services on the due date; or
      - (b) Otherwise breached this agreement and failed to rectify such breach within seven days notice; or
      - (c) Cancel delivery of goods or services; or
      - (d) Commits an act of bankruptcy or allows a trustee in bankruptcy or receiver and manager to be appointed to the Client or any of its property; or
      - (e) Allow a judgment or order to be enforced or become enforceable against the Client's property; or
      - (f) Permits proceedings to be commenced to wind the Client up or controller, receiver, administrator, liquidator or similar officers appointed to the Client in respect of any part of its property;
- then the Company may enter upon the Client's premises (doing all that is necessary to gain access) where goods supplied under this contract are situated at any time and re-take possession of any or all of the goods the Company has supplied to the Client and:
- 6.2 The Client will be in default if the Client does not pay any monies payable when called upon so to do the Client and the Guarantor jointly and severally acknowledge and agree that the Company is authorised to contact a credit reporting agency throughout the term of the Agreement to obtain a report about the creditworthiness of either the Client or the Guarantor or both.
  - 6.3 The Client and the Guarantor jointly and severally authorise the Company to engage in the exchange of information with a credit reporting agency or with other such parties as are necessary to give effect to the contract and to the ongoing relationship between the parties hereto.
  - 6.4 The Company reserves the right to report a Client's delinquent account to a credit reporting agency should payment remain outstanding for more than 60 days. In addition, the Company may refer the outstanding account for debt collection or issue legal proceedings to recover any outstanding invoices. Should an account be referred for debt collection the Client acknowledges and agrees to pay debt collection charges to be calculated at not less than 20% plus GST and will be incurred on the day the Company refers the matter to their nominated debt collection agency. The client shall also be liable for interest and all legal recovery costs associated with such action on a solicitor and own client or indemnity cost basis.
7. **Set-off**
    - 7.1 The Client agrees that:
      - (a) The Company may set-off any credit amount that the Company owes to the Client against any debt due by the Client to the Company at the Company's sole discretion;
      - (b) The Client is not entitled to withhold payment of any money in respect of any alleged set-off or claim the Client might have against the Company.
  8. **Return of Goods**
    - 8.1 This clause applies where the Company, at its sole and absolute discretion, accepts the return of Goods from the Customer.
    - 8.2 The Customer warrants that it shall examine Goods immediately after delivery.
    - 8.3 The Customer must obtain prior approval from The Company before any Goods can be returned. No Goods will be accepted for return without the relevant "Credit Request Number" issued from the Company.
    - 8.4 The Company will not be obliged to accept the Goods returned by the Customer or granting a credit for such Goods, unless:
      - (a) the returned Goods are accompanied by the Company's "Credit Request Number";
      - (b) the returned Goods are accompanied by the Company's packing reference and original invoice or the original invoice number; and
      - (c) the Goods are returned in original packaging and condition in which they were delivered or collected.
      - (d) The return of Goods will be assessed and reviewed on a case by case basis.
    - 8.5 Any Goods returned will be subject to a restocking charge of 10% of the Purchase Price of those Goods.
    - 8.6 Notwithstanding any right of the Customer to return the Goods, to the extent permitted by law, the Company will not accept the return of the Goods in the following circumstances:
      - (a) where the Goods have been incorrectly ordered by the Customer;
      - (b) any Goods that cannot be returned for health and/or safety reasons;
      - (c) if the Goods have been damaged or a defective as a result of the Customer's negligence in dealing with the Goods, or mishandling or misuse of the Goods;
      - (d) where the Customer has purchased the Goods from wholesaler, broker or other unauthorised supplier;
      - (e) where the Customer has purchased the Goods from a trustee, administrator, receiver or liquidator sale or auction.



# TERMS & CONDITIONS OF SALE

## 9. Warranties

- 9.1 The Company liability is limited to, to the extent permissible by law and at the Company's option;
- (a) in relation to the Goods:
- 9.1.a.1 the replacement of the products or the supply of equivalent products
  - 9.1.a.2 the repair of the products
  - 9.1.a.3 the payment of the cost of replacing the products or of acquiring equivalent products; or
  - 9.1.a.4 The payment of the cost of having the products repaired
- (b) Where the Goods are services:
- 9.1.b.1 the supply of service again; or
  - 9.1.b.2 the payment of the cost of having the services supplied again.
- 9.2 Any claims to be made against the Company for short delivery of Goods must be lodged with the Company in writing within 7 days of the delivery date.
- 9.3 To the extent permitted at law, all other warranties whether implied or otherwise, not set out in these Terms are excluded and the Company is not liable in contract, tort (including, without limitation, negligence or breach of statutory duty) or otherwise to compensate Customer for:
- (a) any increased costs or expenses;
  - (b) any loss of profit, revenue, business, contracts or anticipated savings;
  - (c) any loss or expense resulting from a claim by a third party; or
  - (d) any special, indirect or consequential loss or damage of any nature whatsoever caused by the Company's failure to complete or delay in completing the order to deliver the Goods.

## 10. PPSA

- 10.1 Defined terms in this clause have the same meaning as given to them in the PPSA.
- 10.2 The Company and the Customer acknowledge that these Terms constitute a Security Agreement and entitle the Company to claim a Purchase Money Security Interest ("PMSI") in favour of the Company over the Collateral supplied or to be supplied to the Customer as Grantor pursuant to these Terms.
- 10.3 The goods supplied or to be supplied under these Terms fall within the PPSA classification of "Other Goods" acquired by the Customer pursuant to these Terms.
- 10.4 The Company and the Customer acknowledge that the Company, as Secured Party, is entitled to register its Security Interest in the Collateral supplied or to be supplied to Customer pursuant to these Terms on the PPS Register.
- 10.5 To the extent permissible at law, the Customer:
- (a) waives its right to receive notification of or a copy of any Verification Statement confirming registration of a Financing Statement or a Financing Change Statement relating to a Security Interest granted by the Customer to the Company.
  - (b) agrees to indemnify the Company on demand for all costs and expenses, including legal costs and expenses on a solicitor / client basis, associated with the;
- 10.5.b.1 registration or amendment or discharge of any Financing Statement registered by or on behalf of the Company; and
- 10.5.b.2 enforcement or attempted enforcement of any Security Interest granted to the Company by the Customer;
- (c) agrees that nothing in sections 130 and 143 of the PPSA will apply to these Terms or the Security under these Terms;
- 10.5.c.1 agrees to waive its right to do any of the following under the PPSA:

- 10.5.c.2 receive notice of removal of an Accession under section 95;
  - 10.5.c.3 receive notice of an intention to seize Collateral under section 123;
  - 10.5.c.4 object to the purchase of the Collateral by the Secured Party under section 129;
  - 10.5.c.5 receive notice of disposal of Collateral under section 130;
  - 10.5.c.6 receive a Statement of Account if there is no disposal under section 132(4);
  - 10.5.c.7 receive a Statement of Account under section 132(3)(d) following a disposal showing the amounts paid to other Secured Parties and whether Security Interests held by other Secured Parties have been discharged.
  - 10.5.c.8 receive notice of retention of Collateral under section 135;
  - 10.5.c.9 redeem the Collateral under section 142; and
  - 10.5.c.10 reinstate the Security Agreement under section 143.
- (d) All payments received from the Customer must be applied in accordance with section 14(6)(c) of the PPSA.

## 11. On-Sale

- 11.1 The Customer agrees that upon the on-sale of any Goods to third parties, it will:
- (a) inform any third party involved of these Terms;
  - (b) inform any third party of the Company's product warranties if any; and
  - (c) not make any misrepresentations to third parties about the Goods.

## 12. Indemnity

- 12.1 To the full extent permitted by law, Customer will indemnify the Company and keep the Company indemnified from and against any liability and any loss or damage the Company may sustain, as a result of any breach, act or omission, arising directly or indirectly from or in connection with any breach of any of these Terms by Customer or its representatives.

## 13. General

- 13.1 These Terms are to be construed in accordance with the laws from time to time in the State of Victoria and the Commonwealth of Australia. The parties submit to the non-exclusive jurisdiction of the Courts of Victoria, Australia and any courts which may hear appeals from those courts in respect to any proceedings in connection with these Terms.
- 13.2 These Terms contain all of the terms and conditions of the contract between the parties and may only be varied by agreement in writing between the parties.
- 13.3 Any conditions found to be void, unenforceable or illegal may, to that extent be severed from the Agreement.
- 13.4 No waiver of any of these Terms or failure to exercise a right or remedy by the Company will be considered to imply or constitute a further waiver by the Company of the same or any other term, condition, right or remedy.

## 14. Right to amend terms and conditions

- 14.1 The Company reserves the right to amend terms and conditions of this agreement by giving the Client notice in writing of the amended terms and conditions to the Client's address as specified on the face of this agreement or as notified by the Client from time to time. The Client is deemed to accept any amended Terms and Condition unless it notifies the Company in writing within seven days of its objection to the proposed amendment to the Terms and Conditions.

## Acknowledgement

I/We acknowledge that I/we have read and understood the contents of these terms and conditions.

### Signature of Applicant # 1

.....  
Signature Date

.....  
Name (please print)

### Signature of Applicant # 2

.....  
Signature Date

.....  
Name (please print)

## OFFICE USE ONLY

Acc No: \_\_\_\_\_ Approved: \_\_\_\_\_ Credit Limit: \_\_\_\_\_ Date: \_\_\_\_\_