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HOUTMAN CHARTERS PTY LTD  
TRADING AS

**Mark Millman**  
**MARINE**

**WE DON'T BUILD THE MOST  
WE BUILD THE BEST**



THIS AGREEMENT IS MADE BETWEEN

**Houtman Charters Pty Ltd Trading As Mark Millman Marine** ACN 009 110 794 of 13 Foskew Way, NARNGULU, Western Australia (ABN 38 009 110 794) ("the Supplier " or "you")

**AND** the entity whose name is set out in the Schedule under the heading "Company Name" or "Proprietor/Partner 1 and Proprietor/Partner 2" ("the Customer" or "we" or "us" or "our")

**WHEREAS-**

- a) The Customer wishes to establish a credit trading account with the Supplier and has submitted to the supplier the information set out In the Schedule.
- b) The Customer and the Supplier agree that in the event the Supplier grants to the Customer a credit trading account then that credit trading account will be on the terms and conditions set out herein and overleaf.

**SCHEDULE**

**APPLICANT (CUSTOMER) DETAILS**

Trading Name: \_\_\_\_\_ ABN: \_\_\_\_\_

Company Name (if applicable): \_\_\_\_\_ ABN/ACN: \_\_\_\_\_

Business Structure (please select):  Pty Ltd  Sole Trader  Partnership  Other \_\_\_\_\_

Is the Applicant a trustee of a trust?  Yes  No

If Yes please state the name of the Trust: \_\_\_\_\_ Establishment Date \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email \_\_\_\_\_

Street Address: \_\_\_\_\_

Postal Address: \_\_\_\_\_

Industry Trading In (type or business): \_\_\_\_\_

Date Business Commenced: \_\_\_\_\_ Date of Incorporation: \_\_\_\_\_

Paid Up Capital: \_\_\_\_\_

Have you ever traded under another trading name?  Yes  No If yes, please state: \_\_\_\_\_

Public Liability Insurer Name (please attach a certificate of currency from your insurer to this application) \_\_\_\_\_

Policy Number: \_\_\_\_\_ Expiry Date: \_\_\_\_\_

**DETAILS OF PROPRIETORS OR PARTNERS** (for Sole Traders or Partners only)

PROPRIETOR/PARTNER 1

Name: \_\_\_\_\_ D.O.B: \_\_\_\_\_ D/L Number \_\_\_\_\_

Email: \_\_\_\_\_ Home No: \_\_\_\_\_ Mobile No: \_\_\_\_\_

PROPRIETOR/PARTNER 2

Name: \_\_\_\_\_ D.O.B: \_\_\_\_\_ D/L Number \_\_\_\_\_

Email: \_\_\_\_\_ Home No: \_\_\_\_\_ Mobile No: \_\_\_\_\_

Have any of the Proprietors or Partners ever been declared bankrupt, entered into arrangements under the Bankruptcy Act or been a director of a company having been wound up or liquidated (voluntarily or otherwise)?

Yes  No If yes please provide details on a separate attachment.

**DETAILS OF DIRECTORS** (for Companies only)

Name: \_\_\_\_\_ D.O.B: \_\_\_\_\_ D/L Number \_\_\_\_\_

Email: \_\_\_\_\_ Home No: \_\_\_\_\_ Mobile No: \_\_\_\_\_

Name: \_\_\_\_\_ D.O.B: \_\_\_\_\_ D/L Number \_\_\_\_\_

Email: \_\_\_\_\_ Home No: \_\_\_\_\_ Mobile No: \_\_\_\_\_

Have any of the Directors ever been declared bankrupt, entered into arrangements under the Bankruptcy Act or been a director of a company having been wound up or liquidated (voluntarily or otherwise)?  Yes  No If yes, please provide details on a separate attachment.

**ACCOUNTS**

Contact Name: \_\_\_\_\_ Email: \_\_\_\_\_

Phone No: \_\_\_\_\_ Fax No: \_\_\_\_\_

**TRADE REFERENCES**

(Please include name, address & contact numbers of current suppliers of credit. Note friends, banks, insurance companies are not acceptable references.)

1. \_\_\_\_\_ T: \_\_\_\_\_ F: \_\_\_\_\_

2. \_\_\_\_\_ T: \_\_\_\_\_ F: \_\_\_\_\_

3. \_\_\_\_\_ T: \_\_\_\_\_ F: \_\_\_\_\_

## TERMS OF TRADING AGREEMENT

### THE AGREEMENT

1. We warrant that:
  - a. the information supplied in the Schedule is true, accurate and correct and is supplied for the purpose of obtaining credit; and
  - b. the signatories to this application are duly authorised to apply for credit and execute this application.
2. We agree to be bound by the terms and conditions of this application.
3. In the event of your granting credit facilities to us then, the following terms will apply:
  - a. All accounts are to be settled in full within 14 days from the date of invoice by electronic funds transfer to your account at your nominated financial Institution.
  - b. If we default in the payment of any monies, then all monies due to you will immediately become due and payable. We must pay that money to you within seven (7) days from the date of demand. You are entitled to charge interest on all amounts not paid by the due date for payment. We must pay any interest that is charged. Interest will be calculated on a daily basis from the due date for payment until the date that you receive payment at an interest rate of 3.5% above the overdraft rate as published by the Westpac Banking Corporation for Business Overdraft Clients.
  - c. We must pay any expenses, costs or disbursements incurred by you in recovering any outstanding monies from us including debt collection agency fees and solicitor's costs (on a full indemnity basis).
  - d. In the event that we default in any of the terms and conditions of the credit arrangement, you are entitled (without notice) to terminate any credit arrangement with us.
  - e. You are entitled to withhold the supply of credit arrangements for any reason at your discretion.
  - f. You shall be entitled during the continuance of the credit arrangement to request security or additional security from us as you think fit. You are entitled to withhold the supply of credit arrangements until we provide that security or additional security.
  - g. If you require additional security from us, at our expense we will mortgage and/or charge in favour of you, our real property and/or personal property (and, if we are a company, the personal assets of the directors of the company) as security for the due payment of all monies which may then be, or thereafter become owing by us to you.
4. We agree that:
  - a. invoices and statements of account posted by you shall be conclusively deemed to have been received by us, days after the date of posting; and
  - b. a certificate purporting to be signed by or on behalf of you and certifying the amount due to you by us at any time will be prima facie proof (until the contrary is proved) of the amount that is due.
5. If you consider it relevant to assessing any application, we agree to your obtaining from a credit reporting agency, a credit report containing commercial/consumer/personal credit information about us.
6. We acknowledge that according to the law of any State or Territory and under Section 18E (B) (c) of the Privacy Act 1988 (Cth) ("Act"), you are allowed to give a credit reporting agency personal information about us. The information which may be given to any agency is covered by Section 18E (1) of the Act, and includes:
  - a. particulars of our identity;
  - b. the fact that we have applied for credit and the amount;
  - c. the fact that you are a current credit provider;
  - d. payments which become overdue more than 14 days, and for which collection action has commenced;
  - e. advice that payments are no longer overdue;
  - f. cheques drawn by us which have been dishonoured more than once;
  - g. depending on the circumstances, that in your opinion, we have committed a serious credit infringement.
7. In accordance with section 18E(1)(b) of the Act, we authorise you to give to and receive from any credit providers be named in a credit report issued by a credit reporting agency, information in your possession or the other credit provider's possession about our credit arrangements, creditworthiness, credit standing, credit history and credit capacity. We understand that the information may be used to:
  - a. Assess this application for credit;
  - b. Assist you in avoiding us defaulting on our credit obligations;
  - c. Notify other credit providers of a default by us; and
  - d. Assess our creditworthiness.
8. If you consider it relevant when collecting overdue payments from us, you may obtain from a credit reporting agency a credit report containing personal information about us in relation to collecting overdue payments.
9. We agree that you may give to and seek from any trade references named in the Schedule, information about our credit arrangements. We 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 according to law.
10. Notwithstanding any implication of law to the contrary, any contract between us and you shall be deemed to be made and construed and to be enforceable in and according to the laws of the State of Western Australia and subject to the jurisdiction of the Courts of that State. Any claim commenced in the Magistrates Court of Western Australia shall be dealt with through the Geraldton Registry of that Court.
11. If any of these terms or conditions is or becomes for any reason wholly or partly invalid, that term or condition, to the extent of the invalidity, shall be severed without prejudice to the continuing force and validity of the remaining conditions.
12. In the case that we are acting as trustee of a trust, we will be personally liable on the account and in addition, the assets of the Trust shall be available to meet payment of the account.

I/We hereby warrant that all the information supplied by us is true and correct. I/We have read the Terms and Conditions associated with the operation of the credit facility. I/We also authorise Mark Millman Marine to conduct a Credit History check w1th an external Credit Agency. I/We acknowledge that until such time that I/We are advised in writing by Mark Millman Marine that a credit facility has been approved any materials, goods, equipment, labour, professional services, rent or hire provided will be on a cash basis only and I/We agree to direct deposit into Mark Millman Marine nominated bank account any Invoiced amounts prior to any Mark Millman Marine employees working on my/our site.

Take Note: It is important that all signatories read and understand this document. It is recommended that you consult with your legal advisor before signing if there is anything you do not understand.

Sole Trader's, Partner's or Directors Signature:	_____	Sole Trader's, Partner's or Directors Signature:	_____
Signatory's name:	_____	Signatory's name:	_____
Title:	_____	Title:	_____
Date:	_____	Date:	_____

**GUARANTEE**  
**(Must be completed for all Applications)**

IN CONSIDERATION OF THE SUPPLIER agreeing to supply credit to the Customer, at the request of the Customer (as evidenced by the execution by the Guarantor of this application) the Guarantor:

- (a) Guarantees to the Supplier the due performance and observance by the Customer of all of the Customer's obligations under this Agreement including the due payment of all moneys payable both currently outstanding and incurred in the future by the Customer and agrees that all such moneys are a debt due and payable by the Guarantors;
- (b) Acknowledges that:
  - (i) no time, credit, forbearance, indulgence or concession which may at any time be granted by the Supplier to the Customer;
  - (ii) no release of or compromise with the Customer or any Guarantor by the Supplier;
  - (iii) no variation of the provisions of this application;
  - (iv) no assignment of this application;
  - (v) no determination of the terms of this application as extended or renewed;will prejudice or affect the liability of the Guarantor hereunder;
- (c) Agrees that this guarantee:
  - (i) is irrevocable and continuing; and
  - (ii) extends to cover all obligations of the Customer to the Supplier howsoever arising;
- (d) As a separate and continuing obligation, HEREBY AGREES to INDEMNIFY and KEEP INDEMNIFIED THE SUPPLIER against all losses, costs, expenses and damages sustained or incurred by the Supplier arising out of or in respect of any breach or default by the Customer in payment of the moneys payable pursuant to this application and or in duly performing and observing any of the provisions of this application on the part of the Customer to be paid, performed and or observed.
- (e) In the event of the Customer committing an **Insolvency Event**:
  - (i) the Guarantor shall not prove or claim in any liquidation, bankruptcy, composition, arrangement or assignment or in respect of any appointment until the Supplier has received one hundred cents in the dollar in respect of all moneys owing by the Customer to the Supplier and the Guarantor shall hold in trust for the Supplier such proof and claim;
  - (ii) without prejudice to any other rights of the Supplier, the Guarantor HEREBY AGREES to INDEMNIFY and KEEP INDEMNIFIED the Supplier against all losses, costs, expenses and damages sustained or Incurred by the Supplier consequent upon any disclaimer of this application by a liquidator or trustee of the Customer.

\* "**Insolvency Event**" means, in relation to any person, that the person:

- (a) goes into compulsory or voluntary liquidation;
- (b) enters into bankruptcy;
- (c) enters into any composition, arrangement with or assignment for the benefit of the person's creditors or a class of them;
- (d) has appointed under any statute or instrument or by order of any Court, a manager, an administrator, a trustee, a receiver, a receiver and manager or a liquidator in relation to any part of the person's undertakings, assets or property;
- (e) commences to be wound up or ceases to carry on business;
- (f) is unable to pay the person's debts as and when they fall due or is presumed so unable under applicable legislation;
- (g) any execution or similar process is issued against the person's property; or
- (h) anything having a substantially similar effect to any of the events specified above happens under any law of any applicable jurisdiction.

(EACH PERSON TO SIGN)

Guarantor's Signature: \_\_\_\_\_ Guarantor's Signature: \_\_\_\_\_

Signatory's name: \_\_\_\_\_ Signatory's name: \_\_\_\_\_

Date: \_\_\_\_\_ Date: \_\_\_\_\_