



KATA HOLDINGS PTY LTD
Trading as McEvoy Transport
82 McKenzie Street, Ceduna SA 5690
and 6 Railway Tce DRY CREEK SA 5094
ACN 128 461 263

CREDIT APPLICATION AND SECURITY AGREEMENT

REGISTERED BUSINESS NAME _____

TRADING NAME/ACCOUNT NAME _____

ABN: _____

BUSINESS ADDRESS _____

POSTAL ADDRESS _____

PHONE NUMBER _____ FAX _____

EMAIL(for invoices and statements – please note that we do not post): _____ @ _____

DETAILS OF CREDIT APPLICANT

(*Delete as appropriate) NAME OF DIRECTOR(S)/PARTNER(S)/INDIVIDUAL(S)

FULL NAME RESIDENTIAL ADDRESS PHONE NO. DRIVERS LICENCE

- 1. _____
- 2. _____
- 3. _____

BANK _____ BRANCH _____

NAME OF PERSON RESPONSIBLE FOR ACCOUNTS _____

TRADE REFERENCES

- 1. _____ FAX NO _____ PH NO _____
- 2. _____ FAX NO _____ PH NO _____
- 3. _____ FAX NO _____ PH NO _____

ANTICIPATED MONTHLY TRADING \$ _____

IS AN ORDER/CONSIGNMENT NUMBER REQUIRED TO BE RECORDED ON INVOICES? YES/NO

I/We wish to enter into a trading agreement with McEvoy Transport and hereby:

- a) Acknowledge trading terms are STRICTLY 14 DAYS FROM STATEMENT DATE.
- b) Authorise McEvoy Transport to contact the references listed on this application and any credit reporting or referencing organization for the purpose of assessing our commercial credit profile.
- c) I/We also undertake to pay all finance charges and debt collection expenses incurred resulting from my default on all overdue accounts.
- d) I/We hereby agree to the above terms of Trade and also the Terms and Conditions of Accounts as attached.
- e) I/We agree to execute the Deed of Personal Guarantee and Indemnity as attached.

Applicant Signature _____

Print Name _____ Position _____ Date _____

OFFICE USE ONLY : TRADE REFERENCE'S CHECKED: _____ DATE ___/___/___

DUN&BRADSTREET SEARCH: APPROVED YES/NO _____

ACCOUNT CODE : _____ DUNS : _____ CREDIT APPLN GUARANTEE e-FILED

TERMS AND CONDITIONS

1. In these terms and conditions:
 - 1.1. the Carrier means Kata Holdings Pty Ltd (ACN 570 034 754) trading as McEvoy Transport (**the Carrier**) and its officers, servants, agents and subcontractors.
 - 1.2. the Client means the person for whom the Carrier performs transport services pursuant to these terms and conditions;
 - 1.3. the Receiver means the person to whom the goods are delivered;
 - 1.4. goods mean any goods that are transported in any manner by the Carrier pursuant to these terms and conditions;
 - 1.5. subcontractor means any person to whom the Carrier subcontracts any transport services;
 - 1.6. transport or carriage means the whole or part (as applicable) of the operation and services undertaken by the Carrier in respect to the goods and includes but is not limited to packing, loading, unloading, carriage, storage and delivery of the goods; and
 - 1.7. Australian Consumer Law means the Competition and Consumer Act 2010 (Cth).
2. The Carrier is not a common carrier and will accept no liability as such. The Carrier reserves the right to refuse the carriage or transport of any class of goods for any Client or Receiver at its sole discretion.
3. The Carrier may have the goods carried, stored or otherwise handled by any servant or subcontractor of the Carrier or any servant agent of any subcontractor and the Client hereby authorizes any deviation from the usual routes or manner of cartage or method or place of storage of goods which may, in the absolute discretion of the Carrier, be deemed necessary in the circumstances. Subject to your rights under the Australian Consumer Law and to the fullest extent permitted by law, the Client and Receiver agree that the Carrier will not be liable to them for loss of profit or other economic loss, direct, indirect or consequential loss, special, general or other damages or other expenses or costs arising out of a breach of contract or incorrect delivery or non-delivery or any common law duty (including negligence) or personal injury by the Carrier, its subcontractors, agents or employees.
4. The Carrier will not affect insurance on transported goods unless specifically instructed to do so. If the Carrier agrees to affect insurance on the goods such agreement will be provided in writing and be affected as the Client's agent and at the Client's full expense in all things.
5. Should a Client require the Carrier to pick up goods on that Client's behalf from a third party, any receipt the Carrier may give to the third party when affecting the pick-up is no more than the record of the pick-up and cannot be construed as confirmation of the quality or the condition of the goods. The Client acknowledges that the Carrier is not required to, and will not, inspect the goods at the time of collection.
6. The Carrier's charges become fully payable as soon as the goods are loaded for transport on the Client's behalf and shall be payable by the Client within fourteen days from the date of a statement or as otherwise agreed in writing.
7. All refunds are subject to the provisions of the Australian Consumer Law.
8. The Client agrees to reimburse the Carrier for any other charges properly incurred by the Carrier in respect of the transport of the goods within fourteen days of a statement being provided or as otherwise agreed in writing. If accounts are not paid within the specified fourteen day period from the date of a statement, the Carrier reserves the right to make additional charges for outstanding amounts not paid by the due date with such additional

charges being calculated as the days the outstanding amounts remained unpaid multiplied by the overdraft rate applicable to the Carrier's bank account plus 2% per annum.

9. Where the Carrier agrees that charges for carriage will be paid by the receiver or a third party, the Client agrees to fully indemnify the Carrier against any and all losses resulting from the non-payment of such charges by the receiver or third party, and without limiting the generality hereof the Client agrees that if any charges are not paid by the Receiver or third party on demand, the Client will pay same to the Carrier.
10. A fee of \$5.00 will be payable by the requesting party for the provision of a duplicate invoice or statement.
11. If the Client fails to pay any charges which are due and payable to the Carrier by the Client on any account and/or fails to collect goods for which the Carrier provides transport or any other service, the Carrier reserves the right, at its option, and in accordance with the provisions of the Unclaimed Goods Act 1987 (SA) to either:
 - 11.1. remove such goods or part thereof and store them in such a place or manner as the Carrier shall in its sole discretion deem appropriate and at the risk and expenses in all things of the Client; or
 - 11.2. open any package and sell such goods or part thereof and apply the proceeds towards the cost of sales and charges and expenses so owing. Any such sale shall not prejudice or affect the Carriers right to recover from the Client any charges due and payable in respect of such services or detention and sale.
12. If the Client fails to take delivery of the goods, the Carrier may without notice, unload the goods, and/or store the goods in any manner it sees fit. Such storage will constitute delivery and thereupon any liability whatsoever of the Carrier in respect to the goods ceases. Such storage shall be at the entire risk of the client and the carrier shall have no liability for any loss or damage to the goods for any reason whatsoever.
13. The Client warrants:
 - 13.1. that it is the owner or otherwise has the authority of the owner to consign the goods upon and subject to these terms and conditions.
 - 13.2. that the goods comply with the requirements of all applicable laws relating to the consigning and packaging of the goods.
 - 13.3. that it will pay all of the expenses and charges incurred by the Carrier in complying with the provisions of all such laws and the requirements of any harbour, dock, railway, shipping, customs warehouse or other authority or company.
 - 13.4. that the Client has complied with all applicable laws relating to perishable and/or dangerous goods by fully describing in writing (whether on the consignment note or separately) the name, nature and value of all goods that are perishable, noxious, dangerous, hazardous, flammable or capable of causing injury or damage to any other goods persons, animals or any store, vessel, vehicle or conveyance of any kind whatsoever from which they may be loaded, carried, packed or stored.
 - 13.5. that the goods are packed in a manner adequate to withstand the ordinary risks of carriage having regard to their nature and the Client indemnifies the Carrier against any and all losses and expenses suffered or incurred by the Carrier as a direct result of any breach of the foregoing warranties.

14. Additional freight charges may be applicable at the Carrier's discretion to perishable, noxious, dangerous, hazardous or flammable goods and to goods capable of causing injury or damage to other goods, persons, animals, any store, vessel, vehicle or conveyance.
15. If the Client is responsible for the loading of the goods the Client shall be liable for any and all expenses, losses and/or damage incurred or suffered by the Carrier as a consequence of any inappropriate, unsafe or unlawful loading of the goods by the Client.
16. The Client is responsible for ensuring that any and all containers, pallet/s delivered with the goods to the Carrier or other packaging containing goods conforms with the Receivers requirements and agrees to fully indemnify the Carrier for any and all costs incurred by the said Carrier as a result of the failure of any of the said containers, packaging or pallets to so conform.
17. Any instruction to the Carrier to exchange or transfer consigned pallets to the Carriers pallet hire account will be accepted only on the basis that the Client fully indemnifies the Carrier against any and all losses or non-recovery of the consigned pallets howsoever arising. Evidence of the instruction to the Carrier and any non-recovery shall be shown on the face of the consignment note and shall be deemed conclusive proof of the instruction and/or non-recovery. The Carrier may make a charge for the cost of hiring, recovery and replacement (if applicable) of all pallets hired by the Carrier unless exchange pallets are available at the time of delivery.
18. If the Client specifically instructs the Carrier to use a particular method of handling or storing for the goods or a particular method of carriage the Carrier will give priority to that method but if such method cannot be conveniently adopted by the Carrier, the Client hereby authorizes the Carrier to handle or store or carry or have the goods carried by another method.
19. The Carrier shall be entitled to open any document, wrapping package or other container in which the goods are placed or carried, to inspect the goods to determine their nature or condition or for the purpose of determining the ownership or destination where any consignment note or other identifying document or mark is lost, damaged, destroyed or defaced.
20. Labour to load and unload goods shall be the responsibility of the Client or Receiver. Should the Receiver not be in attendance during normal trading hours or at a time specified by the Carrier, the Carrier may at its sole discretion deposit the goods at that place (at which time the goods will be deemed to be delivered) or the Carrier reserves the right to make alternative delivery and/or storage arrangements in which case the Client will be responsible for any and all costs associated with such alternative arrangements. Once goods are delivered, whether documentation has been signed or not, the Carrier is not responsible for the goods or any subsequent loss or damage to the said goods.
21. The Carrier will deliver goods to intermediate points only by special arrangement and then only provided suitable facilities are available for delivery at all hours. No responsibility will be taken by the Carrier for damage to or shortages in delivered goods. Please check your goods on pickup and delivery. Any lost or damaged goods must be notified to the Carrier in writing within 24 hours of delivery or pickup. Responsibility for the goods passes to the client or receiver upon delivery of such goods.
22. The Carrier may charge freight by weight, measurement, or value and may at any time re-weigh, re-measure or re-value or require the goods to be re-weighed, re-measured and/or re-value and charge proportional additional freight accordingly.
23. If the Carrier is requested by the Client to pack goods for transport such request must be described on the accompanying documentation. The Carrier shall, subject to its obligations under the Australian Consumer Law and to the fullest extent permitted by law, not be liable for:
 - 23.1. any damage or loss howsoever arising, whether in the course of packing or in transit or otherwise and howsoever occasioned to the goods or any of them;

- 23.2. when the Carrier is required to load or unload any liquids, or any products into bulk tanks or vessels, drums or containers it shall not be liable for any loss or damage or contamination whatsoever of the product, during any such loading or unloading operation or packing whilst such product is in transit or whilst the goods are held in store or bulk storage tanks for any reason whatsoever.
24. The Client agrees to pay any and all debt collection and legal expenses incurred by the Carrier in relation to any money owing by the Client to the said Carrier.
25. Notwithstanding anything contained in these terms and conditions, the Carrier shall continue to be subject to the terms, conditions and warranties imposed under the Competition and Consumer Act 2010 (as amended) or by its obligations under any applicable Commonwealth or State Legislation.
26. The Carrier shall not be bound by any agreement purporting to vary these terms and conditions unless such agreement is in writing and signed on behalf of the Carrier by its duly authorized officer. These terms and conditions apply irrespective of whether a consignment note or other relevant delivery documentation is signed by or on behalf of the Client.
27. To the extent permitted by law, these terms and conditions continue to apply and be of full force and effect in all circumstances notwithstanding any breach or alleged breach of the contract or any of these terms and conditions by the Carrier or any other person entitled to the benefit of such provisions.
28. The laws applicable to these terms and conditions are the laws of South Australia.

DEED OF PERSONAL GUARANTEE AND INDEMNITY

MADE THIS DAY OF YEAR :

BETWEEN:

(1) (Name/s and address
..... of Guarantors)
.....
.....
.....
(the "Guarantors")

(2) **KATA HOLDINGS PTY LTD ACN 128 461 263 Trading as McEvoy Transport ("McEvoy Transport")**

RECITALS

A. At the request of the Guarantor, McEvoy Transport has agreed that it will, at its discretion provide credit and/or goods and services from time to:

..... (Company Name)
..... (Company ACN)
..... (Company Address)
(the "Purchaser")

B. The Guarantor considers that by providing this Guarantee and Indemnity ("this Guarantee") there will be commercial benefit flowing to the Guarantor.

THE PARTIES AGREE AND DECLARE AS FOLLOWS:

29. Personal Guarantee to pay anything owed by the Purchaser at any time

The Guarantor personally guarantees to McEvoy Transport the due and punctual payment by the Purchaser of all monies at any time owing and payable by the Purchaser to McEvoy Transport, now or in the future.

30. Continuing Guarantee

30.1. This Guarantee is a continuing guarantee and the Guarantor's liability under it is not affected, avoided, discharged or released by any variation in any agreement or agreements between McEvoy Transport and the Purchaser. Nor is this Guarantee affected or discharged by the insolvency of the Guarantor or the Purchaser, nor by the Guarantor's death, nor by McEvoy Transport releasing the Guarantor or the Purchaser, or giving the Guarantor or the Purchaser time to pay or to perform any obligation. Nor is it affected or discharged by any inaction by McEvoy Transport with respect to its rights either against the Purchaser or the Guarantor.

30.2. The Guarantor shall not be released from this Guarantee until the Guarantor receives written notice from McEvoy Transport stating this.

31. Indemnity

31.1. In addition to the continuing guarantee, the Guarantor personally indemnifies McEvoy Transport against any and all losses that it may suffer as a result of the supply of goods and/or services on credit to the Purchaser or otherwise suffers as a result of the Purchaser not complying with its obligations to McEvoy Transport.

31.2. The Guarantor further indemnifies McEvoy Transport and shall pay McEvoy Transport on demand all the amount of all losses, liabilities, costs and expenses (including, without limitation, legal expenses on a full indemnity basis) and all fees connection with the enforcement and/or attempted enforcement and/or preservation and/or attempted preservation of any rights under this Guarantee.

Initials :

32. Undertaking of Personal Liability and Acknowledgment of Personal Nature of Liability

The Guarantor undertakes a personal liability to pay or do what has been guaranteed and is aware that assets owned by the Guarantor (such as cash, company shares, house, car or any other belongings or property of the guarantor) may end up being taken to satisfy the Guarantor's liability under this Guarantee.

33. Charge

33.1. As security for the punctual payment of any amount owed to McEvoy Transport by the Purchaser at any time, the Guarantor agrees to charge all freehold and leasehold interest in land which the Guarantor now has, or may hereafter during the currency of this Guarantee acquire, with payment of all monies at any time owing and payable by the Purchaser to McEvoy Transport.

33.2. The Guarantor further agrees to charge all personal property which the Guarantor now has or may hereafter during the currency of this Guarantee acquire with payment of all monies at any time owing and payable by the Purchaser to McEvoy Transport.

34. Preference

34.1. If McEvoy Transport forms the view, for any reason, after it receives a payment from the Purchaser and applies the payment to a debt owed to McEvoy Transport by the Purchaser, that McEvoy Transport is obliged to disgorge the payment or portion thereof to a Liquidator appointed to the Purchaser, McEvoy Transport's rights are reinstated in relation to the debt that it applied the payment to (as if the payment had never been made) and the Guarantor shall be liable to pay McEvoy Transport the amount it disgorges to the Liquidator.

34.2. Furthermore, the Guarantor indemnifies McEvoy Transport against any and all losses and/or legal costs McEvoy Transport incurs (on a full indemnity basis) as a result of disgorging monies to any Liquidator appointed to the Purchaser and/or challenging and/or defending a preference demand and/or Claim made by a Liquidator of the Purchaser.

35. Joint and Several Liability

If there is more than Guarantor, the liability and obligations of the Guarantors under this Guarantee are joint and several and the agreement to charge property as set out in clause 5 is joint and several.

This is an important legal document and you should consider obtaining legal advice before signing.

EXECUTED as a Deed

1. _____ <i>Guarantor's full name (please print)</i>	_____ <i>Guarantor's Signature</i>
_____ <i>Witness name & address (please print)</i>	_____ <i>Witness' signature</i>
2. _____ <i>Guarantor's full name (please print)</i>	_____ <i>Guarantor's signature</i>
_____ <i>Witness name & address (please print)</i>	_____ <i>Witness' signature</i>
3. _____ <i>Guarantor's full name (please print)</i>	_____ <i>Guarantor's signature</i>
_____ <i>Witness name & address (please print)</i>	_____ <i>Witness' signature</i>

INSTRUCTIONS AND CHECKLIST

1. *Please ensure that all parts of this credit application are filled out. This will ensure a speedy assessment of your application.*
2. *Please initial all pages of this document*
3. *Please return this document to :*

*McEvoy Transport
Attention : The Financial Controller
PO Box 2454
DRY CREEK SA 5094*

OR FAX : 08 8260 2251

OR EMAIL : admin@mcevoytransport.com.au