

Account Application Form



ABN 41 009 782 389

Tropic Distributors Pty Ltd
Fuel Distributor

Head Office

Ph: (07) 4726 0300
Fax: (07) 4726 0399
Email: tropic@tropicd.com.au
Post: PO Box 1509 Townsville Qld 4810
Address: 131 Denham St, Townsville 4810
Web: www.tropicd.com.au

Sales/Orders

Ph: (07) 4726 3000
Fax: (07) 4772 4755
Address: South Townsville
Qld 4810



Tropic Distributors Network

Tully

Ph: (07) 4068 1319
Fax: (07) 4068 1512
Address: Caltex Tully, Bruce Highway, Tully, Qld 4854

Winton

Ph: (07) 4657 1146
Fax: (07) 4657 0249
Address: Caltex Winton, 4 Chirnside Street, Winton, Qld 4735

Ingham

Ph: (07) 4776 6266
Fax: (07) 4776 1106
Address: Caltex Ingham, Herbet Street, Ingham, Qld 4850

Townsville - Garbutt

Ph: (07) 4779 5873
Fax: (07) 4779 6134
Address: Caltex Garbutt, 26-28 Pilkington Street, Garbutt, Qld 4814

Townsville - Pimlico

Ph: (07) 4725 2802
Fax: (07) 4725 4124
Address: Caltex Pimlico, Cnr French & Palmerston Streets, Pimlico, Qld 4812

Townsville - Kirwan

Ph: (07) 4773 5633
Fax: (07) 4773 1525
Address: Caltex Kirwan, 103-105 Thuringowa Drive, Kirwan, Qld 4817

Ayr

Ph: (07) 4783 1786
Fax: (07) 4783 6593
Address: Caltex Sunland, 101 Edwards Street, Ayr, Qld 4807

Charters Towers

Ph: (07) 4787 4791
Fax: (07) 4787 4918
Address: Caltex Charters Towers, 262 Gill Street, Charters Towers, Qld 4918

Bowen

Ph: (07) 4786 1771
Fax: (07) 4786 6159
Address: Caltex Barrier Reef Roadhouse, Bruce Highway, Bowen, Qld 4805

Rossiters Hill

Ph: (07) 4726 3000
Fax: (07) 4772 4755
Address: Caltex Rossiters Hill, Bruce Highway, Rossiters Hill, Qld 4807

TERMS AND CONDITIONS

1. DEFINITIONS

"GST" means a tax, levy, duty, charge or a deduction together with any related additional tax, interest, penalty, fine or other charge imposed by a GST law;

"GST Law" means the A New Tax System (Goods and Services Tax) Act 1999 and any Act enacted in addition or substitution to it;

"Indemnity Subject Matter" means any injury to or death of a person, all claims and demands, any loss or damage, and any penalty, expense, cost or loss of whatsoever nature including legal fees and costs on a solicitor and own client basis, arising directly or indirectly from:

- any negligent act or omission of the Applicant; or
- any breach of this Agreement by the Applicant.

2. INTERPRETATION

In the interpretation of this Agreement:

- singular includes plural and vice versa;
- references to a person include a corporation, association, partnership, government authority, or any legal entity;
- references to statutes include statutes amending, consolidating or replacing the statutes and includes all regulations and by laws made under those statutes;
- covenants by each party include an obligation to procure compliance by all other persons under the control of that party;
- covenants on the party bind each two or more persons jointly and each person severally. The release of one of the persons from an obligation does not release any other person who may be jointly liable;
- any undertaking by a party not to do any act or thing is taken to include an undertaking not to permit or suffer the doing of the act or thing;
- if the day on or by which any act or thing is to be done is not a Business Day that act or thing must be done on the next Business Day following the due day;
- all annexures, schedules and other attachments (if any) form part of this Agreement; and
- a reference to anything after the words "includes" or "including" does not limit what else might be included.

3. OFFER AND ACCEPTANCE

3.1 The Applicant has applied for credit with Tropic.

3.2 Tropic will be deemed to have accepted the Applicant's application upon:

- Tropic executing this Application in the signature panel; or
- Tropic providing any goods and/or services to the applicant on credit.

4. SUPPLY OF GOODS AND/OR SERVICES ON CREDIT

4.1 The Applicant has requested that Tropic supply the Applicant with goods and/or services.

4.2 Tropic has agreed to provide the Applicant with goods and/or services on the terms and conditions set out herein.

4.3 The Applicant acknowledges that credit will be provided to the Applicant on the terms and conditions set out herein.

5. CREDIT LIMIT

The goods and/or services will only be supplied up to a credit limit Tropic considers acceptable. Tropic will determine the credit limit and may vary the credit limit in its absolute discretion.

6. SECURITY

6.1 The Applicant, where required by Tropic, must provide a completed credit application form and where applicable also provide directors and/or personal guarantors and/or other security.

6.2 The Applicant grants to Tropic an equitable mortgage over any property owned by the Applicant personally and / or as Trustee of any Trust (including land acquired in the future) as security for the payment of all monies now or in the future owed to Tropic on any account. In this clause "Trust" means each trust for which the Applicant holds land as trustee.

6.3 The Applicant acknowledges that Tropic may request further security from the Applicant at any time.

7. PAYMENT OF ACCOUNT

7.1 The Applicant agrees to pay for all goods and/or services supplied.

7.2 Tropic will issue monthly statements to the Applicant.

7.3 Any goods and/or services supplied by Tropic to the Applicant on credit during any month must be paid in full by the Applicant before the due date shown on the statement for that month.

8. INTEREST AND FEES ON OUTSTANDING ACCOUNTS

8.1 Tropic has a strict policy of requiring payment of its accounts by the due date shown on the statement.

8.2 If the Applicant fails to pay any amount owing by the due date then Tropic will charge interest on the outstanding amount at the rate of 11% per annum compounding monthly.

8.3 In addition to any interest payable on any outstanding amount, the Applicant must pay an administration fee of 1% plus GST on the outstanding amount as at the 22nd day of each month.

8.4 The Applicant agrees to pay Tropic's costs and expenses on a solicitor and own client basis which Tropic may incur or suffer as a result of the Applicant's failure to pay any monies owing to Tropic.

9. CURRENT FINANCIAL RECORDS

If:

- the Applicant has an account which has been outstanding for more than 28 days; or
- the Applicant has persistently breached this Agreement, then the Applicant must upon request provide Tropic with:
- current financial records certified by an accountant as being true and accurate; and
- a current credit report prepared by a respectable credit reporting agency.

10. CARDS

10.1 The Applicant will be issued with a fuel card.

10.2 The Card is the Applicant's responsibility and if the card is lost, mislaid or destroyed then the card will be replaced at the Applicant's cost.

10.3 The Applicant agrees to pay a card administration fee of \$3.00 per month plus GST for each and every card that is issued to the Applicant and the Applicant's employees, directors and authorised agents.

10.4 The Applicant acknowledges that there are transaction fees payable upon the use of the card. The transaction fee varies from location to location.

10.5 Upon termination or cessation of this Agreement, the Applicant must return all cards to Tropic.

11. DDR SERVICE AGREEMENT CUSTOMER INFORMATION

11.1 This Agreement outlines Tropic's service commitment to the Applicant in respect of the Direct Debit Request (DDR) arrangements made between Tropic and the Applicant.

11.2 In terms of the DDR, Tropic undertakes to periodically debit the Applicant's nominated account for the agreed amount of purchases in the month prior to the 21st of the month for a business and every 14 days for a private account.

11.3 The first drawing under this DDR arrangement will occur on the 21st of the following month for a business account and 14 days after the date of this Agreement for a private account.

11.4 If any drawing falls due on a non-business day, the direct debit will draw on the working day prior to the due date.

11.5 Should terms of the arrangement change 14 days notice will be provided either by phone, fax, email or correspondence.

11.6 The Applicant should contact Tropic at least seven (7) working days prior to the next scheduled drawing date if the Applicant has any queries or changes to the initial terms and Tropic will advise if written notification is required. Changes include – deferring the drawing, altering the schedule, stopping and suspending a debit item or cancelling the DDR.

11.7 If a drawing is dishonoured the amount will be debited to the Applicant's account along with any bank and other charges that Tropic has incurred in the process.

11.8 If a drawing has been initiated incorrectly please contact Tropic during business hours. The Applicant will receive a refund of the drawing amount if Tropic cannot substantiate the reason for the drawing.

11.9 It is the Applicant's responsibility to ensure that:

- the nominated account can accept direct debits; and
- on the due date clear funds are available in the nominated account.

12. EXCHANGE OF REFERENCES BETWEEN CREDIT PROVIDERS

12.1 The Applicant agrees that Tropic may:

- seek from or give to other credit providers details about the Applicant's credit worthiness; and
- obtain a credit report containing personal information about the Applicant from a credit reporting agency.

12.2 The Applicant agrees that Tropic may give to and seek from any credit providers named in this application and any credit providers that may be named in a credit report issued by a credit reporting agency information about the Applicant.

12.3 The Applicant understands that this information can include any information about the Applicant's credit worthiness, credit standing, credit history or credit capacity that credit providers are allowed to give or receive from each other under the Privacy Act. The Applicant understands that the information may be used for the following purposes:

- to assess an application for credit;
- to notify other credit providers of a default by the Applicant;
- to exchange information with other credit providers as to the status of the Applicant's account; and
- to assess the Applicant's credit worthiness.

13. ASSESSMENT OF APPLICATION FOR CONSUMER CREDIT

13.1 The Applicant agrees that Tropic may seek consumer credit information.

13.2 If Tropic considers it relevant to assessing the Applicant's application for consumer credit, the Applicant agrees to Tropic obtaining from a credit reporting agency a credit report containing personal credit information about the Applicant in relation to consumer credit provided by Tropic.

14. NOTICE OF DISCLOSURE OF YOUR CREDIT INFORMATION TO A CREDIT REPORTING AGENCY

14.1 The Applicant acknowledges and agrees that Tropic may give a credit reporting agency personal information about the Applicant's credit application. The information which may be given to an agency is covered by Section 19(E)(1) of the Privacy Act 1988 includes:

- identity particulars (as permitted by the Privacy Commissioners determination issued under Section 18E(3));
- the fact that the Applicant has applied for credit and the amount;
- the fact that Tropic is a current credit provider to the Applicant;
- payments which become overdue more than 60 days, and for which collection has been commenced;
- advice that payments are no longer overdue;
- cheques drawn by the Applicant which have been dishonoured more than once;
- in specified circumstances that, in the opinion of Tropic, the Applicant has committed a serious credit infringement; and
- that credit provided to the Applicant by Tropic has been paid or otherwise discharged.

15. RETENTION OF TITLE

15.1 The Applicant agrees that, until payment of all monies owing to Tropic is received, any goods delivered to the Applicant remain the property of Tropic.

15.2 Until the Applicant has paid all monies to Tropic:

- the goods are held by the Applicant as a fiduciary bailee of Tropic;
- the Applicant must store the goods separately so that they are readily identifiable as the property of Tropic;
- the Applicant must not sell the goods except with the prior written consent of Tropic in the ordinary course of the Applicant's business;
- any proceeds of such resale, in so far as they relate to the goods, must be held upon trust for Tropic in a separate account; and
- Tropic may enter any premises owned or Lease by the Applicant to inspect or remove the goods.

15.3 Tropic will not be liable for any damage done to the land or property of the Applicant during the removal of the goods.

16. SUSPENSION AND CANCELLATION OF ACCOUNT

Tropic may at any time and without giving any reason, suspend or terminate its supply of credit, or goods and/or services to the Applicant.

17. TERMINATION OF THIS AGREEMENT

Termination of this Agreement does not:

- affect any claim or action that a party may have against the other or affect any other right or remedy that the party may have; or
- release any guarantors; or
- relieve any other party of any obligation under this Agreement which is expressed to continue after termination.

18. RISK

Once the goods have been delivered to the Applicant they are at the risk of the Applicant.

19. LIMITATION OF LIABILITY

19.1 Tropic will not be liable for any loss or damage whatsoever arising from:

- the failure for whatever reason of Tropic to deliver any goods and/or services on any specified date or at all; or
- the loss or damage to any person, property or thing arising out of the delay, non delivery or other failure to supply the goods and/or services.

19.2 Despite any other condition, Tropic will be discharged from all liability for loss or damage unless an action or claim is brought within six (6) months of delivery or in the case of non performance or omission, within six (6) months of the date the performance, delivery or act should have occurred.

19.3 Despite any thing to contrary in this Agreement, any claim by the Applicant for damages, can not exceed the lesser of:

- \$100,000.00;
- the outstanding balance of the Applicant's account as at the date of the claim.

20. INDEMNITY

The Applicant indemnifies Tropic against the Indemnity Subject Matter.

21. VARIATION

Tropic may by fourteen (14) days notice in writing to the Applicant change the terms and conditions of this Agreement including changes to payment dates and terms.

22. JURISDICTION

22.1 The parties agree that the jurisdiction in respect of any relief and/or remedies and/or are enforcement of this Agreement will be determined by the jurisdiction of the Courts in Queensland. Each party waives any right it has to object to an action being brought in those Courts including, without limitation, by claiming that the action has been brought in an inconvenient forum or that those Courts do not have jurisdiction.

22.2 Further, the Applicant agrees that Tropic may commence any claim or seek any relief in the Supreme Court and/or in the District Court and/or the Magistrates Court sitting at Townsville in the State of Queensland and any such Court will not be required to make any determination as to whether it has local jurisdiction in respect of the matter.

23. GENERAL TERMS

23.1 The Applicant cannot assign this Agreement without first obtaining the consent of Tropic.

23.2 Tropic may assign its rights and obligations under this Agreement without first obtaining the consent of the Applicant.

23.3 The person who signed this Agreement warrants and declares that he or she is authorised to sign this Agreement on behalf of the Applicant and declares that he or she understands and agrees to the terms and conditions.

23.4 If any of these terms and conditions are unenforceable then the unenforceability does not affect any other part of the condition or any other condition but rather it will be severed from them.

23.5 All amounts payable in, under or by this Agreement are exclusive of GST and the Applicant must pay any GST payable on a supply under this Agreement.

3. Surname: Given Name/s Title (eg. Mr/Mrs).....

Residential Address: Town/City: State: Postcode:

Residence: Owned Leased Date of Birth: Drivers Licence No.:

Telephone No.: Facsimile No.: Email:

4. Surname: Given Name/s Title (eg. Mr/Mrs)

Residential Address: Town/City: State: Postcode:

Residence: Owned Leased Date of Birth: Drivers Licence No.:

Telephone No.: Facsimile No.: Email:

PART E: REFEREES - PLEASE PROVIDE FIVE (5) CREDIT REFERENCES

Name: Telephone: Fax:

Name: Telephone: Fax:

Name: Telephone: Fax:

Name: Telephone: Fax:

Name: Telephone: Fax:

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- covenants by each party include an obligation to procure compliance by all other persons under the control of that party;
- covenants on the party bind each two or more persons jointly and each person severally. The release of one of the persons from an obligation does not release any other person who may be jointly liable;
- any undertaking by a party not to do any act or thing is taken to include an undertaking not to permit or suffer the doing of the act or thing;
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- (c) to assess an application for credit;
- (d) to notify other credit providers of a default by the Applicant;
- (e) to exchange information with other credit providers as to the status of the Applicant's account; and
- (f) to assess the Applicant's credit worthiness.

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- (b) the fact that the Applicant has applied for credit and the amount;
- (c) the fact that Tropic is a current credit provider to the Applicant;
- (d) payments which become overdue more than 60 days, and for which collection has been commenced;
- (e) advice that payments are no longer overdue;
- (f) cheques drawn by the Applicant which have been dishonoured more than once;
- (g) in specified circumstances that, in the opinion of Tropic, the Applicant has committed a serious credit infringement; and
- (h) that credit provided to the Applicant by Tropic has been paid or otherwise discharged.

15. RETENTION OF TITLE

15.1 The Applicant agrees that, until payment of all monies owing to Tropic is received, any goods delivered to the Applicant remain the property of Tropic.

15.2 Until the Applicant has paid all monies to Tropic:
(a) the goods are held by the Applicant as a fiduciary bailee of Tropic;
(b) the Applicant must store the goods separately so that they are readily identifiable as the property of Tropic;
(c) the Applicant must not sell the goods except with the prior written consent of Tropic in the ordinary course of the Applicant's business;
(d) any proceeds of such resale, in so far as they relate to the goods, must be held upon trust for Tropic in a separate account; and
(e) Tropic may enter any premises owned or Lease by the Applicant to inspect or remove the goods.

15.3 Tropic will not be liable for any damage done to the land or property of the Applicant during the removal of the goods.

16. SUSPENSION AND CANCELLATION OF ACCOUNT

Tropic may at any time and without giving any reason, suspend or terminate its supply of credit, or goods and/or services to the Applicant.

17. TERMINATION OF THIS AGREEMENT

Termination of this Agreement does not:
(a) affect any claim or action that a party may have against the other or affect any other right or remedy that the party may have; or
(b) release any guarantors; or
(c) relieve any other party of any obligation under this Agreement which is expressed to continue after termination.

18. RISK

Once the goods have been delivered to the Applicant they are at the risk of the Applicant.

19. LIMITATION OF LIABILITY

19.1 Tropic will not be liable for any loss or damage whatsoever arising from:
(a) the failure for whatever reason of Tropic to deliver any goods and/or services on any specified date or at all; or
(b) the loss or damage to any person, property or thing arising out of the delay, non delivery or other failure to supply the goods and/or services.

19.2 Despite any other condition, Tropic will be discharged from all liability for loss or damage unless an action or claim is brought within six (6) months of delivery or in the case of non performance or omission, within six (6) months of the date the performance, delivery or act should have occurred.

19.3 Despite any thing to contrary in this Agreement, any claim by the Applicant for damages, can not exceed the lesser of:

- (a) \$100,000.00;
- (b) the outstanding balance of the Applicant's account as at the date of the claim.

20. INDEMNITY

The Applicant indemnifies Tropic against the Indemnity Subject Matter.

21. VARIATION

Tropic may by fourteen (14) days notice in writing to the Applicant change the terms and conditions of this Agreement including changes to payment dates and terms.

22. JURISDICTION

22.1 The parties agree that the jurisdiction in respect of any relief and/or remedies and/or are enforcement of this Agreement will be determined by the jurisdiction of the Courts in Queensland. Each party waives any right it has to object to an action being brought in those Courts including, without limitation, by claiming that the action has been brought in an inconvenient forum or that those Courts to do not have jurisdiction.

22.2 Further, the Applicant agrees that Tropic may commence any claim or seek any relief in the Supreme Court and/or in the District Court and/or the Magistrates Court sitting at Townsville in the State of Queensland and any such Court will not be required to make any determination as to whether it has local jurisdiction in respect of the matter.

23. GENERAL TERMS

23.1 The Applicant cannot assign this Agreement without first obtaining the consent of Tropic.
23.2 Tropic may assign its rights and obligations under this Agreement without first obtaining the consent of the Applicant.
23.3 The person who signed this Agreement warrants and declares that he or she is authorised to sign this Agreement on behalf of the Applicant and declares that he or she understands and agrees to the terms and conditions.
23.4 If any of these terms and conditions are unenforceable then the unenforceability does not affect any other part of the condition or any other condition but rather it will be severed from them.
23.5 All amounts payable in, under or by this Agreement are exclusive of GST and the Applicant must pay any GST payable on a supply under this Agreement.

PART F: EXECUTED BY THE APPLICANT. The Applicant acknowledges that it has read the terms and conditions and accepts the rights, obligations and conditions set out herein.

1. Name: **2. Name:**.....

Position: **Position:**

Signature: **Signature:**

Date:/...../..... **Date:**/...../.....

3. Name: **4. Name:**

Position: **Position:**

Signature: **Signature:**

Date:/...../..... **Date:**/...../.....

**PART G: SCHEDULE 1 – DEED OF GUARANTEE AND INDEMNITY
DETAILS OF GUARANTOR**

1. Surname: **Given Name/s:** **Title (eg. Mr/Mrs)**.....

Residential Address: **Town/City:** **State:** **Postcode:**

Date of Birth:..... **Drivers Licence No.:**..... **Relationship to Applicant:**.....

2. Surname: Given Name/s: Title (eg. Mr/Mrs).....

Residential Address: Town/City: State: Postcode:

Date of Birth: Drivers Licence No.: Relationship to Applicant:.....

3. Surname: Given Name/s: Title (eg. Mr/Mrs).....

Residential Address: Town/City: State: Postcode:

Date of Birth: Drivers Licence No.: Relationship to Applicant:.....

4. Surname: Given Name/s Title (eg. Mr/Mrs).....

Residential Address: Town/City: State: Postcode:

Date of Birth: Drivers Licence No.: Relationship to Applicant:.....

Tropic Distributors Pty Ltd ("Tropic") encourages you to obtain independent legal advice before signing and returning this guarantee.

1. In consideration of Tropic agreeing to supply the Applicant with goods and/or services on credit ("the Contract") at the request of the Guarantor, the Guarantor:

- (a) guarantees to Tropic that the Applicant will pay all monies now or in the future payable to Tropic on any account from time to time including the balance of any running account, interest and enforcement costs;
- (b) guarantees to Tropic that the Applicant will observe and perform its obligations;
- (c) undertakes to Tropic that with the Applicant the Guarantor will be jointly and severally liable for the payment of all monies and for any loss or damage suffered by Tropic as a result of the Applicant's failure to observe and perform the Applicant's obligations under the Contract.

2. The Guarantor's liability is not reduced or discharged by Tropic:

- (a) terminating the Contract with the Applicant;
- (b) granting any time concession or indulgence to the Applicant;
- (c) entering into any composition or scheme arrangement with the Applicant;
- (d) waiving any breach or default by the Applicant;
- (e) failing to enforce the terms of the Contract against the Applicant;

- (f) releasing any other guarantor; and
- (g) changing, varying or amending the terms and conditions of the supply of any goods and services to the Applicant.

3. The Guarantor irrevocably charges as beneficial owner and as trustee of every Trust all the Guarantor's land (including land acquired in the future) in favour of Tropic to secure:-
(a) payment of all monies now or in the future owing to Tropic by the Applicant on any account; and
(b) the performance and observance of the Applicant under the Contract and the Guarantor's covenants under this Guarantee.
In this clause "Trust" means each trust for which the Guarantor holds land as trustee.

4. If the terms of the Contract are not enforceable against the Applicant for any reason the Guarantor indemnifies Tropic against any loss it may suffer as a result. That loss will include all monies that would have been payable by the Applicant had the Contract been fully enforceable against the Applicant.

5. If the Guarantor comprises more than one (1) person:
(a) each is liable even if the others do not execute the Guarantee;
(b) each becomes liable when he or she executes the Guarantee; and
(c) the liability of those that execute the Guarantee will be joint and several.

1. Executed as a Deed by (sign))

Name

as Guarantor thisday of, 20)

in the presence of (sign))

Witness

Name

2. Executed as a Deed by (sign))

Name

as Guarantor thisday of, 20)

in the presence of (sign))

Witness

Name

3. Executed as a Deed by (sign))

Name

as Guarantor thisday of, 20)

in the presence of (sign))

Witness

Name

4. Executed as a Deed by (sign))

Name

as Guarantor thisday of, 20)

in the presence of (sign))

Witness

Name