



## EPIROC AUSTRALIA PTY LTD APPLICATION FOR COMMERCIAL CREDIT TRADING ACCOUNT

This application applies to all goods and services supplied by Epiroc Australia Pty Ltd.  
All Sections of this Application must be completed signed and returned to Epiroc Australia Pty Ltd.

### SECTION 1 Applicant's Details

Business or Company Name					
Trading As (If applicable)					
Business Type					
<input type="checkbox"/> Private Company	<input type="checkbox"/> Partnership	<input type="checkbox"/> Public Company			
<input type="checkbox"/> Sole Trader	<input type="checkbox"/> Trust				
ACN		ABN		Registered for GST	Yes / No
Nature of Business					
Registered Address					
	State		Postcode		
Trading/ Delivery Address					
	State		Postcode		
Year Started Trading		Paid Up Capital \$			
Main Phone Number					
Postal address for accounts					
Email address for accounts					

### Trustee Details To Be Completed If The Applicant Is A Trustee

Name of Trust		Name of Trustee			
ABN of Trust		ACN of Trustee			

### Partner, Sole Trader, Director Details

	Name	Address	Driver's License No	Phone No	DOB
1					
2					
3					

Epiroc Australia Pty Ltd

ABN 70 000 086 706

Epiroc Australia Pty Ltd  
Ph: 1300 366 880  
3 Bessemer Street,  
Blacktown, N.S.W., 2148

# APPLICATION FOR COMMERCIAL CREDIT TRADING ACCOUNT

## Contact Details

	Position	Print Name	Phone No
1	Accountant		
2	Accounts Payable		
3	Purchasing Manager		

## Trade References

	Print Name	Phone No
1		
2		
3		

## SECTION 2

### Acknowledgements, Consents and Acceptances of Application Terms

#### A. NOT AN OFFER TO PROVIDE CREDIT

The provision of this application to the Applicant, completion of the application by the Applicant and/or receipt of the application by Epiroc is not an offer to provide credit or credit facilities.

#### B. CREDIT LIMITS

Epiroc may (in its sole discretion) do any of these things, at any time, without notice to the Applicant:

- set the Applicant's credit limit;
- change the Applicant's credit limit; and
- stop providing goods and/or services to the Applicant on account (either temporarily or permanently).

Accordingly, the Applicant

- acknowledges and represents that the Applicant will not rely on being able to obtain goods or services on account at any particular time (or at all); and
- warrants that the Applicant will always have arrangements in place to pay for goods and services on delivery (or in advance) if Epiroc stops providing goods and/or services on account at any time.

#### C. SECURITY

Epiroc may, at any time and in its absolute discretion, require the Applicant to provide additional security.

#### D. PRIVACY CONSENT

The Applicant consents to Epiroc obtaining, and using, information about the Applicant (including the information set out in Section 1 of this application and any other information provided by the Applicant or by a third party concerning the Applicant) to decide whether to provide (or continue to provide) goods and/or services to

the Applicant on account. Epiroc will handle the personal information and credit information of the Applicant as set out in the Atlas Copco Australia Privacy Policy. The Applicant acknowledges that the Applicant has read and understood the Atlas Copco Australia Group Privacy Policy <http://www.atlascopco.com.au/auus/legalnoticepage.aspx>

The Applicant acknowledges that Epiroc will disclose information to Dun & Bradstreet, a credit reporting body and will collect, hold and use information relating to your commercial and consumer creditworthiness from Dun & Bradstreet, a credit reporting body, for all purposes permitted by law.

#### E. TERMS AND CONDITIONS

The Applicant acknowledges and agrees that all products and services will be provided solely on the terms and conditions available on the Atlas Copco Australia website <http://www.atlascopco.com.au/auus/aboutus/terms-and-conditions.aspx> and on request from Epiroc. To avoid doubt, no other terms or conditions will apply (including any set out in (or any referred to in) any of the Applicant's documents – including any set out in, or referred to in, purchase orders terms and conditions).

#### F. IMPORTANT INFORMATION

Epiroc may (in its absolute discretion) reject this application. The Applicant represents and warrants that the Applicant understands and agrees to the contents of this application and that the Applicant has had the opportunity to seek legal advice on it.

# APPLICATION FOR COMMERCIAL CREDIT TRADING ACCOUNT

## Acceptance

Print Name and Position	Signature*	Date

\*the signatory(s) warrant(s) that they are authorised to make this application on behalf of the Applicant.

## SECTION 3 Guarantee And Indemnity Deed Poll (Applicable for Director, Sole Trader, Partnership or Trust)

**DATE OF DEED POLL:** \_\_\_\_\_

### 1 Definitions

**Epiroc** means Epiroc Australia Pty Limited ABN. 70 000 086 706

**Debtor** means

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(insert Applicant details - see page 1)

**Guaranteed Monies** means all money that the Debtor is liable to pay to Epiroc at or after the date of this Deed Poll on any account and in any way whatever, and whether:

- a) the Debtor is liable alone or together with another person; or
- b) the Debtor is liable as principal debtor, surety, partner, trustee, beneficiary or otherwise; or
- c) the relevant liability is:
  - i. actual or contingent, ascertained or unascertained, fixed or fluctuating;
  - ii. in respect of principal, interest, purchase obligations, fees or damages; or
  - iii. is of any other character.

**Guarantor** means

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(insert Guarantor(s). Include full name and address for individuals and partners and ACNs for companies)

**Insolvency** of a person (which, for the purposes of this Deed Poll, includes bodies corporate, joint ventures, partnerships, trusts, associations, unincorporated bodies) means any form of insolvency and is taken to include (without limitation):

- a) Winding Up; and
- b) the appointment of an administrator, receiver, receiver and manager, trustee, provisional liquidator, liquidator, or any other person (however described) holding or appointed to an analogous office or acting or purporting to act in an analogous capacity; and
- c) any composition, compromise, arrangement, merger, amalgamation, reconstruction, administration, assignment for the benefit of creditors or insolvency of, by, or adversely affecting the person and any procedure which is equivalent or analogous in any jurisdiction; and
- d) death or permanent incapacity.

**Winding Up** includes (without limitation):

- a) dissolution, liquidation, provisional liquidation and bankruptcy; and
- b) any analogous or equivalent procedure in any jurisdiction.

### 2 Guarantee and Indemnity

2.1 Each Guarantor unconditionally and irrevocably:

- a) guarantees to Epiroc that the Debtor will pay the Guaranteed Monies to Epiroc on time; and
- b) indemnifies Epiroc on demand against all losses, damages, costs and expenses which Epiroc suffers because:

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- i. the Debtor does not pay the Guaranteed Monies on time; or
  - ii. of the Insolvency of the Debtor or a Guarantor; or
  - iii. Guaranteed Monies (or money which would be Guaranteed Monies if it were recoverable) is not recoverable from, or a liability to pay Guaranteed Monies is not enforceable against, a Debtor or a Guarantor for any reason, whether or not Epiroc knew or ought to have known anything about it.
- 2.2 Each Guarantor must immediately pay on written demand (which may be delivered by facsimile or prepaid post to the last address of the Guarantor known to Epiroc):
- a) the Guaranteed Monies; and
  - b) the amount of any loss, damage, cost and expense referred to in clause 2.1(b),
  - c) whether or not Epiroc has made a demand on the Debtor or the Guaranteed Monies is immediately payable by the Debtor.
- 2.3 Each Guarantor waives any right which it may have to require Epiroc to proceed against or enforce any other right, power, remedy or security against or to claim payment from the Debtor, any other Guarantor or any other person before claiming from that Guarantor under this Deed Poll.
- 2.4 This Guarantee and Indemnity applies to the present and future balance of the Guaranteed Monies, is a continuing guarantee and indemnity and is not discharged or partially discharged by the payment of any of the Guaranteed Monies, the settlement of any account or anything else. This Guarantee and Indemnity is irrevocable and continues until Epiroc unconditionally releases it in writing.
- 2.5 The liability of each Guarantor is not adversely affected by anything which would otherwise reduce or discharge the liability of the Guarantor, including (without limitation):
- a) Epiroc granting time or any other indulgence or concession to the Debtor or any other person; or
  - b) Epiroc increasing the amount, or otherwise varying the type or terms, of financial accommodation provided to the Debtor; or
  - c) Any transaction or agreement, or variation, novation or assignment of a transaction or agreement, between Epiroc and a Debtor or any other person; or
  - d) The Insolvency of any person, or Epiroc becoming a party to or bound by any Insolvency; or
  - e) An obligation of a Guarantor or Debtor being void, voidable, unenforceable, defective, released, waived, impaired, transferred, enforced or impossible or illegal to perform; or
  - f) Any judgment or order against the Debtor, a Guarantor or any other person; or
  - g) The Guaranteed Monies not being recoverable or the liability of the Debtor or any other person to Epiroc ceasing, including as a result of a release or discharge by Epiroc or by law; or
  - h) Epiroc exercising or not exercising its rights under any agreement or at law against the Debtor or any other person; or
  - i) Any default, misrepresentation, negligence, breach of contract, misconduct, acquiescence, delay, waiver, mistake, failure to give notice or other action or inaction of any kind (whether or not prejudicial to a Guarantor) by Epiroc or any other person; or
  - j) Any change to, or in the membership of, any partnership, joint venture or association.
- 2.6 This Guarantee and Indemnity is a principal and independent obligation of each Guarantor and is not ancillary or collateral to any other obligation.
- 2.7 Until Epiroc has received all the Guaranteed Monies and is satisfied that it will not have to repay any money received by it in connection with the Guaranteed Monies, each Guarantor must not (either directly or indirectly):
- a) claim, exercise or attempt to exercise a right of set-off or counterclaim against Epiroc (whether the right is the Guarantor's or any other person's) or any other right which might have the effect of reducing the Guaranteed Monies; or
  - b) claim or exercise a right of subrogation or a right of contribution; or
  - c) unless Epiroc has given a written direction to do so:
    - i. prove, claim or exercise voting rights in the Insolvency of the Debtor; or
    - ii. otherwise claim or receive the benefit of a distribution, dividend or payment arising out of the Insolvency of a Debtor; or
    - iii. Demand, or accept payment of, any money owed to the Guarantor by the Debtor.
- 2.8 If any payment or other transaction relating to the Guaranteed Monies is void, voidable, unenforceable or defective or is claimed to be so (each an "**Avoidance of Payment**") and that claim is upheld or settled then:
- a) the liability of each Guarantor under this Deed Poll will be what it would have been but for the Avoidance of Payment; and
  - b) each Guarantor must immediately execute all documents and do all other things necessary or required by Epiroc to restore Epiroc to the position it was in immediately before the Avoidance of Payment, even if Epiroc knew or ought to have known that the payment or transaction was void, voidable, unenforceable or defective.
- ### 3 General
- 3.1 Epiroc may assign its rights under this Deed Poll without the consent of any Guarantor. If it does so, the Guaranteed Monies will include all liabilities of each Guarantor to the assignee which are within the scope of the definition whether or not the liabilities arose or were contemplated before the date of the assignment. Epiroc may disclose to a potential assignee any confidential information provided to Epiroc by a Guarantor.
- 3.2 This Deed Poll is valid and fully enforceable against any executing party despite:
- a) any failure to execute by any other person intended to be, or contemplated as, a party to this Deed Poll; or
  - b) any defect in the manner of execution of this Deed Poll by any party; or
  - c) this Deed Poll being unenforceable for any other reason against any party or against any person intended to be, or contemplated as, a party to this Deed Poll.
- 3.3 Each Guarantor must immediately notify Epiroc of any change in its address.
- 3.4 Epiroc need not incur an expense or make a payment before enforcing an indemnity or reimbursement obligation in this Deed Poll.
- 3.5 Each guarantor must return an original executed version of this Deed Poll to Epiroc. However, Epiroc may, in its

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absolute discretion, rely upon a copy of this Deed Poll, executed by each Guarantor and provided electronically (including by facsimile or email), as an original executed version of this Deed Poll.

3.6 Each Guarantor represents and warrants that they have read and understand, and agree to, all of the provisions

of this Deed Poll and that they have had the opportunity to seek legal advice on it.

3.7 This Deed Poll is governed by the laws of New South Wales, Australia.

**Signed sealed and delivered, as a Deed Poll,  
under hand by:**

\_\_\_\_\_  
**(insert full name of guarantor)**  
in the presence of:

-----  
Signature of Individual

-----  
Signature of Witness

-----  
Name of Witness

**Signed sealed and delivered, as a Deed Poll,  
under hand by:**

\_\_\_\_\_  
**(insert full name of guarantor)**  
in the presence of:

-----  
Signature of Individual

-----  
Signature of Witness

-----  
Name of Witness