



Elders Account Application Form

Agreement between Elders Rural Holdings Ltd, Elderstock Ltd (t/a Elders Livestock), Elders Card Ltd, Elders Merchandise Ltd, Elders Primary Wool Ltd and any group companies of Elders Rural Holdings duly incorporated having their registered offices at Level 1, 3 Melrose street, Newmarket, Auckland (hereinafter referred to as Elders) and _____ (applicant).

Account type required? Elders Card Elders Merchandise Elders Livestock

Trading Name _____

Full Name _____ Date of Birth _____

Joint Applicant _____ Date of Birth _____

Other (Company, P'ship, Incorp Society) _____

Postal Address _____

Property Address _____

Bank Account No. _____ Account to be paid by Direct Debit YES/NO

Elders Branch for Account Management _____

Names of Persons & Positions authorised to operate account

Name _____ Name _____

Phone _____ Fax _____

Mobile _____ Email _____

Registered for GST? Yes/No GST Number _____ Net Asset Value _____

No of Years Traded _____ Nature of Business _____

Trade/Credit References: (Per section 10 of terms & conditions this information is to be used for purposes of credit application only)

1. _____ 2. _____ 3. _____

Are you an existing Elders Customer?

Elders Card If Yes Card Number/s _____

Elders Merchandise If Yes Account Name _____

Elders Livestock If Yes Account Name _____

Application and declaration

- I/we, the applicant(s) hereby apply for the issue of the account and/or card specified in this application form
- If this application is accepted I/we agree to accept liability for all the charges incurred by and arising from the use of the account and/or card(s) issued to me/us including any reissued card and where this application is made by more than one entity, such liability shall be joint and several.
- I/we declare that:
 - The information provided in this application is true and correct.
 - I/we understand that Elders may seek verification of all or any of the information provided by me/us in this application.
 - I/we have read and understood the terms and conditions supplied to me/us (available at www.elders.co.nz) associated with the respective account and /or card(s) for which I am/we are applying.
 - I/We have read and understood the Privacy Act provisions and authorise Elders to use information collected in the application form for the purposes provided in the terms and conditions.
 - Where this application is made by an entity other than an individual, I/We are duly authorised by the applicant to complete this application on behalf of the applicant.
- I/we understand that a false declaration may result in this application being rejected, or any account opened or card issued in reliance on this declaration being closed or cancelled without notice to me/us.

Signature/s _____ Name _____ Date _____

Elders use only

Branch Name _____ Company Rep / Agent Code _____

Authorised Officer / Manager _____ Date: / /

For Elders Card Applicants

Residency

Are you a NZ resident? Yes No

Next of Kin

Name of a close relative not living with you _____

Their home address _____

Their phone number _____

Relationship to Principal Applicant _____

Employment - (Non Commercial Customers only)

Principal Applicant

Occupation _____

Name & Address of Employer _____

How long employed? _____

Name of Previous Employment _____

Length of Employment? _____

Joint Applicant

Occupation _____

Name & Address of Employer _____

How long employed? _____

Name of Previous Employment _____

Length of Employment? _____

Income details (Principal applicant)

| | | |
|---------------------------|---------------------------|------------------------------|
| Gross Annual Income _____ | Other Annual Income _____ | Source of Other Income _____ |
|---------------------------|---------------------------|------------------------------|

| | |
|----------------------------|------------------------------|
| Gross Monthly Income _____ | Total Monthly Expenses _____ |
|----------------------------|------------------------------|

Do You: Rent Own/Buying Home Other _____

Taxable supplies greater than 75% of total supplies? Yes/No

Credit Limit Requested _____

| | |
|------------------------------|-----------------|
| Name to appear on Card _____ | Signature _____ |
| _____ | _____ |
| _____ | _____ |

In order to receive exclusive Elders Card discounts from Card program partners I consent to valid merchant transactions being charged to my Elders Card Account Yes/No

Please attach a copy of an identity document, bearing your signature such as a Passport, Drivers Licence or Credit Card (COMPULSORY - if this is not received with the application a card can NOT be issued)

* Please indicate all cards required on this account. All persons requiring a card must be over 18 years of age and have signed this section



TERMS & CONDITIONS OF USE FOR ELDERS ACCOUNT

1. DEFINITIONS

- (a) "Account Facility" means the facility arranged in respect of your Elders Account/s.
- (b) "Accountholder" means the person or entity in whose name an Elders Account is opened and is deemed to include each Guarantor and, where the context permits, is deemed to include any agent, contractor, employee or representative of the Accountholder.
- (c) "Agreement" means the Agreement between you and Elders comprised in these Terms and Conditions, your application for an Elders Account and any other terms agreed from time to time.
- (d) "ATM Terminal" means any terminal approved by Elders which enables amounts to be debited or credited electronically from or to your Elders Card/s.
- (e) "Cardholder" means the person to whom an Elders Card is issued by Elders.
- (f) "Credit Limit" means the credit limit from time to time specified by Elders in its absolute discretion on your Account Facility.
- (g) "Due Date", in respect of all Elders Accounts except Elders Livestock Accounts, means 2pm on the 20th day of the month following the closing date of each Elders Statement and, in respect of Elders Livestock Accounts, means 2pm on the 14th day following the date of supply of Goods to the Accountholder.
- (h) "EFT Terminal" means a terminal located at a Merchant's point of sale enabling an Electronic Funds Transfer to be completed from an Elders Card Account.
- (i) "Elders" means Elders Rural Holdings Limited, Elderstock Limited (trading as Elders Livestock), Gisborne Farmers Limited, Elders Merchandise Limited, Elders Primary Wool Limited, Elders Card Limited, Elders Direct Limited and any company in the Elders Group of Companies or any company associated with or nominated by any such company. "Elders" is a registered brand of Elders New Zealand Limited.
- (j) "Elders Account" means an Elders Merchandise Account, Elders Livestock Account, Elders Primary Wool Account or an Elders Card Account.
- (k) "Elders Card Statement" means an Elders Statement issued in relation to an Elders Card Account.
- (l) "Elders Card" means a valid and current credit card issued by Elders which is owned by Elders Card Limited and Elders Direct Limited.
- (m) "Elders Card Account" means an account that may be utilised for operation of an Elders Card.
- (n) "Elders Livestock Account" means an account that may be utilised as a trading account with Elderstock Limited.
- (o) "Elders Merchandise Account" means an account that may be utilised as a trading account with Elders Merchandise Limited.
- (p) "Elders Primary Wool Account" means an account that may be utilised as a trading account with Elders Primary Wool Limited.
- (q) "Elders Statement" means the monthly transaction statements issued by Elders in respect of an Elders Account, but in respect of an Elders Livestock Account means the invoice provided to you when Goods are supplied to you.
- (r) "Electronic Funds Transfer" or "EFT" means the process by which funds are withdrawn electronically from your Elders Account. Elders address is Level 1/3 Melrose Street, Newmarket, Auckland which shall be the full names and addresses of the creditors for the purpose of the Credit Contracts and Consumer Finance Act 2003.
- (s) "Goods" means all present and future acquired purchases, goods and services, and livestock supplied by Elders to you pursuant to these terms and over which you consent to the granting to Elders of a Security Interest (if applicable) pursuant to the Personal Property Securities Act 1999.
- (t) "Guarantor" means any guarantor in respect of an Elders Account and, where the context permits, includes any agent, contractor, employee or representative of the Guarantor.
- (u) "Merchant" means a merchant approved by Elders to operate an EFT Terminal.
- (v) "Minimum Payment Due" means:
 - (i) the greater amount of such sum as shall be advised to you from time to time or 10% of the closing balance of your Elders Card Statement plus any past due amounts payable; and
 - (ii) if applicable, an amount sufficient to reduce the balance of your Elders Card Statement to the Credit Limit, or such other amount as agreed from time to time between you and Elders.
- (w) "Off-line Fund Transfer" or "OFT" means the process by which funds are withdrawn from your Card Account when an EFT device is out of operation.
- (x) "PPSA" means the *Personal Property Security Act 1999*.
- (y) "PIN" means the Personal Identification Number issued to or selected by you through Elders which, when used in conjunction with an Elders Card in an EFT Terminal approved by Elders, enables you to make EFT transactions.
- (z) "Secured Property" means all your rights, title and interest (present and future, legal or equitable) in your undertaking, property, assets and revenues (including your uncalled capital and called but unpaid capital) whether situated in New Zealand or elsewhere.
- (aa) "Terms and Conditions" means these terms and conditions of use and any other terms and conditions of use issued by Elders from time to time in relation to Elders Accounts.
- (bb) "Transaction" means an Electronic Funds Transfer, Off-line Funds Transfer or any other transactions performed with the use of your Elders Card or involving your Elders Account and either Elders or a Merchant.
- (cc) "Upon Demand" means upon demand being made by notice in writing by the person entitled to make demand or any agent or clerk or servant of such person served upon the person upon whom demand is to be made either personally or by posting the same in a duly registered letter addressed to him at his usual or last known place of abode in New Zealand and "Demand" shall have the corresponding meaning.
- (dd) "You" and "your" means the Accountholder or Cardholder as the context requires.

2. THE CONTRACT

Upon agreement by you in writing to accept these Terms and Conditions or your acceptance by use of your Elders Account or Elders Card these Terms and Conditions will form a legal contract between you and Elders. Use of your Elders Account is at all times governed by the then current Terms and Conditions as varied from time to time by Elders.

3. ELDERS CARD AND PIN NUMBERS

- (a) Following approval of your application for an Elders Card Account, Elders will issue you with an Elders Card. The Elders Card will be valid until the expiry date shown on the Elders Card, or until your Elders Card Account is closed, whichever is the earlier.
- (b) On receipt of the Elders Card, you must sign the card immediately with your usual signature on the white strip on the reverse of the Elders Card. You must take reasonable care to keep the Elders Card safe, so that it cannot be used by anyone other than you.
- (c) The Elders Card remains the property of Elders and must be returned to Elders on request. IF YOUR CARD IS LOST OR STOLEN YOU MUST PHONE 0800 104 400 IMMEDIATELY and notify Elders accordingly.
- (d) With your Elders Card you will also be provided with a PIN which may be either selected by you or by Elders. Your PIN must not be written on, or kept in any form with, the Elders Card or disclosed to any other person including any family members or Elders staff.
- (e) You must exercise every possible care to ensure the safety of your Elders Card and to prevent disclosure of your PIN. IF YOUR PIN BECOMES KNOWN TO SOMEONE ELSE OR IF A RECORD OF YOUR PIN IS LOST OR STOLEN YOU MUST PHONE 0800 104 400 IMMEDIATELY and notify Elders accordingly.
- (f) Elders will issue a new Elders Card to you at its discretion prior to the expiry of your existing Elders Card and upon written request by you if the current Elders Card has been lost, stolen or damaged. A replacement card fee of \$2.50 will be charged to your Elders Card Account.
- (g) If your Elders Card becomes damaged or faulty, Elders will issue you with a new Elders Card when you return the damaged/ faulty Elders Card to Elders together with a description of how the damage or fault occurred. A replacement card fee of \$2.50 will be charged to your Elders Card Account.

4. USE OF THE ELDERS CARD

- (a) Use of your Elders Card in a valid Transaction constitutes an irrevocable authority by you to Elders to debit your Elders Card Account in respect of that Transaction and to pay the amount to the Merchant.
- (b) You cannot stop payment of a Transaction which has been validly signed or authorised.
- (c) Elders will not be responsible for any dispute between you and any Merchant for the actions of any Merchant including any refusal to honour the Elders Card, for any liability for goods and services obtained by using the Elders Card or for occurrences beyond Elders' control. Any such dispute does not relieve you from the obligation to pay any amount due to Elders without deduction.
- (d) if you dispute any Transaction recorded in your Statement, Elders may require you to detail your dispute in writing.

5. YOUR ELDERS ACCOUNT

- (a) An Elders Account provides you with a debit account against which you can charge authorised Transactions.
- (b) Elders will maintain an Elders Account for you to which all Transactions will be debited.
- (c) Fees and charges (if any and as first notified to you) will be debited to your Elders Card Account.
- (d) An Elders Account may be cancelled upon written request by you or by written notice to you by Elders. Cancellation does not negate or reduce your liability to pay to Elders all amounts outstanding at that time together with charges and debits relating to the Elders Account that may subsequently be processed. In the event of your bankruptcy or death your Elders account will be immediately cancelled and Elders must be immediately notified to enable such cancellation to be effected.
- (e) Any demand or notice to you hereunder shall be made in writing addressed to you and signed on behalf of Elders by an attorney, officer, manager, agent or solicitor and shall be deemed to have been duly served if delivered to you personally or addressed to you and left at the address specified in any application or notification to Elders as your address or posted to your last known place of business or abode in New Zealand.
- (f) You authorise Elders to debit to your Elders Account all such money as is now owing or remains unpaid or shall from time to time hereafter becoming owing or remain unpaid to Elders and not on any other Elders account whether in respect of:
 - (i) Money advanced or paid to you or for your use or charges incurred on your Elders Account; or
 - (ii) Negotiable instruments drawn, accepted or endorsed by you or on your behalf and discounted or paid or held by Elders either at your request or in the course of your business or otherwise although the same or any of them may not have arrived at maturity; or
 - (iii) Money which Elders may be or become liable to pay on your behalf or at your request; or
 - (iv) Money owing or unpaid to Elders by you on any other account or security or in any other manner whatsoever (including contingent liabilities) – and whether the liability for such money may be incurred by you directly or indirectly or alone or jointly with any person or persons, firm, company or corporation or whether any such money shall be held by Elders on a suspense account or intended to be appropriated by Elders for you or on your behalf or any of your creditors (including Elders, in respect of your contingent or other liabilities).
- (g) Elders may at any time in its sole discretion combine any of your Elders Accounts without notice and no agreement to the contrary shall arise by implication only.
- (h) Elders may apply (without prior notice) all or part of any credit balance (whether or not then due) to which you are at the time beneficially entitled on any Elders Account in or towards satisfaction of any part of any amount due to Elders and, following any default, Elders may transfer all or part of such credit balance to an account in Elders' name by way of security for any such obligations. If at any time any amount is contingently due or is not quantified, Elders may retain and withhold repayment of any such credit balance pending such amounts becoming due or being quantified and/or may set off any amount up to the maximum liability which may at any time be or become owing to it as it sees fit.

6. PAYMENTS

- (a) You will receive an Elders Statement each month for each of your Elders Accounts other than an Elders Livestock Account, for which an Elders Statement will be presented at the time of delivery of Goods. The balance shown on your Elders Statement is due on the Due Date.
- (b) If you make payment of the full amount of your Elders Card Statement balance by the Due Date, no interest will be charged on Transactions listed in your Elders Card Statement EXCEPT where a balance is carried forward from an earlier Elders Card Statement.
- (c) If you do not pay the full amount of your Elders Card Statement balance by the Due Date you are required to pay at least the Minimum Payment Due by the Due Date. You may pay any amount you wish, provided that it equals or exceeds the Minimum Payment Due. If you do not pay the Minimum Payment Due by the Due Date, the outstanding balance in your Elders Card Account shall become immediately repayable and you will incur additional charges or fees as disclosed by Elders from time to time, default interest at Elders' then current rate from the Due Date until the outstanding balance of your Elders Card Account is paid in full and, at the option of Elders, you may not be able to use your Elders Card.
- (d) If the full amount of your Elders Statement is not paid on or before the Due Date then interest shall accrue on the daily outstanding balance of your Elders Account so unpaid at the current interest rate of Elders from the date of the Transactions to which such outstanding balance relates to the date the amount is paid in full. The interest so charged shall be calculated with daily rests from the date of the Transactions and shall be payable each billing period until the full amount of the outstanding balance has been paid.
- (e) Interest accruing on an Elders Account shall be charged to your account on the last billing day of each period as specified by Elders and shall compound monthly on the last billing day of each period until full payment has been made.
- (f) Any payments you make will be applied against your Elders Account in the following order:
 - (i) All interest accrued to the date of payment.
 - (ii) All fees or charges and Government duties shown on the current Elders Statement and any previous Elders Statement.
 - (iii) All Transactions outstanding on the previous Elders Statement
 - (iv) All Transactions made since the commencement date of the current Elders Statement
 - (v) Any other outstanding balances remaining unpaid.
- (g) Unless provided otherwise, the outstanding balance of your Elders Account is repayable Upon Demand or, failing demand, then on the expiry, cancellation or withdrawal of your Elders Account.
- (h) Payments may be made directly to Elders, c/- Elders Card at Private Bag 92 211, Auckland or by direct credit to Elders' bank account by prior agreement with Elders.
- (i) Payments other than notes and coins will be provisionally credited to your Elders Account but will not be treated as payment until cleared.
- (j) Elders Statements may be subject to alteration by reversal of unpaid debits or credits processed on or about the date of the Elders Statement.

7. CREDIT LIMIT

- (a) Your approved Credit Limit will be shown on the mailer containing your Elders Card or confirmation of acceptance of your application for an Elders Account and on your Elders Statements.
- (b) The outstanding balance under your Elders Account shall not exceed the Credit Limit without Elders' written approval. If at any time your Elders Account balance exceeds the Credit Limit, the amount in excess of your Credit Limit will be immediately due and payable.
- (c) Any Credit Limit may be increased, decreased or cancelled at the sole discretion of Elders and any Account Facility may be withdrawn at any time without Elders being required to provide any reason to you.

8. ELECTRONIC FUNDS TRANSFER TRANSACTIONS (ELDERS CARD ACCOUNTS ONLY)

- (a) You authorise an Electronic Fund Transfer by using your Elders Card with your associated PIN or signature at an EFT Terminal.
- (b) You may use your Elders Card to carry out EFT transactions in any approved ATM available. Access to an EFT Terminal is at the Merchant's discretion.
- (c) You authorise an Off-line Funds Transfer by signing or authorising the issue of a sales voucher.
- (d) The daily limit for EFT transactions shall be determined by Elders from time to time. If at any time any amounts debited to your Elders Card Account exceed the daily EFT transaction limit, the amount in excess of the daily EFT transaction limit will be immediately due and payable.
- (e) In addition to these Terms and Conditions, the use of your Elders Card in an EFT Terminal is subject to the conditions imposed from time to time by other financial institutions that are parties to any EFT system. In case of conflict, these Terms and Conditions shall prevail.

9. JOINT ELDERS ACCOUNTS

- (a) Where Elders Accounts have been issued in joint or separate names, each Accountholder is bound by these Terms and Conditions and is jointly and severally responsible for all obligations arising out of use of the Elders Accounts.
- (b) Elders will accept instructions relating to a joint account from either of the Accountholders. To cancel a joint Elders Account, the consent or request of only one Accountholder is necessary plus (in the case of an Elders Card Account) the return to Elders of all Elders Cards. Cancellation does not affect your liability until all obligations have been met.
- (c) One Elders Card relating to a joint Elders Card Account may be cancelled on the instructions of either Cardholder and the Elders Card must be returned to Elders. Cancellation of an Elders Card does not affect that Cardholder's liability until all obligations have been met.

10. ADDITIONAL CARDS (ELDERS CARD ACCOUNTS ONLY)

Elders may, at your written request, issue additional Elders Cards to persons nominated by you. Transactions made by way of an additional Elders Card will be debited to your Elders Card Account. You will remain responsible for all amounts owing as a result of use of the additional Elders Card or Cards.

11. YOUR LIABILITY (ELDERS CARD ACCOUNTS ONLY)

If your Elders Card is lost, stolen or your PIN becomes known to someone else, you will not be liable for any Transactions made after you have notified Elders. If you delay making such notification, you may be liable for all losses that could otherwise have been prevented.

12. TERMINATION

- (a) Your Elders Account may be cancelled by written notice to you by Elders. If you are notified that your Elders Account has been cancelled, you must immediately pay the outstanding balance of your Elders Account and any reasonable costs incurred by Elders in collecting payment. Interest will continue to accrue to your Elders Account until payment of the outstanding balance has been made.
- (b) If you are notified that your Elders Card Account has been cancelled you must immediately cut all Elders Cards relating to that Elders Card Account in half and return them to Elders.
- (c) You may cancel your Elders Account at any time by notifying Elders in writing.
- (d) You may cancel your Elders Card or the Elders Card of any joint/additional Cardholder at any time by notifying Elders in writing, cutting the Elders Card in half and returning it to Elders. Receipt of such notice from you by Elders does not negate or reduce your liability to pay to Elders all amounts outstanding at that time together with charges and debits relating to the Elders Card Account that may be subsequently processed. In the event of your death or bankruptcy, Elders must immediately be notified and your Elders Card will be deemed to have been cancelled immediately following your death or bankruptcy. If you cancel all of the Elders Cards on your Elders Card Account, you (and the joint/additional Cardholder where applicable) must immediately pay the outstanding balance of the Elders Card Account and any reasonable costs incurred by Elders in collecting payment. Interest will continue to accrue to your Elders Card Account until payment of the outstanding balance has been made.
- (e) Cancellation of your Elders Account does not negate or reduce your liability to pay to Elders all amounts outstanding at that time together with charges and debts relating to your Elders Account that may subsequently be processed.

13. INTEREST

- (a) The interest rate and default interest rate on your Elders Account at any time will be the then current rate which Elders charges on its Elders Accounts.
- (b) A certificate in writing signed by an authorised officer of Elders certifying to the rate or rates of interest from time to time or at any time charged by Elders shall be conclusive evidence of the rate or rates therein certified to and payable hereunder and a statement of the principal, interest and other moneys due and owing under your Elders Account at the date mentioned in such statement shall be prima facie evidence against all parties interested hereunder of the amounts so due or owing.
- (c) In the event that legal action is initiated by Elders relating to default in payment of any amount due by you to Elders, interest will continue to be charged until actual payment is received regardless of judgment or collection.

14. COSTS AND CHARGES

- (a) All costs, charges and expenses including GST and legal costs between party and party and solicitor and client which Elders shall pay, incur, sustain or be put to, for or on behalf of or in connection with you or your Elders Card/s or Elders Account or in the enforcement or attempted enforcement or protection of its rights under any agreement, including these Terms and Conditions, you have with Elders will be charged to your Elders Account and be payable by you Upon Demand.
- (b) You are required to pay Elders any statutory or regulatory body charges, duties or taxes, existing or subsequently imposed relating to your Elders Account. Other fees and charges that may be incurred and charged to your Elders Account include but are not limited to:
 - (i) Annual Elders Account charges;
 - (ii) Replacement Elders Card fees (may apply to lost, stolen, damaged or faulty Elders Cards);
 - (iii) Card identification charges;
 - (iv) Courier/freight charges;
 - (v) Voucher search fees;
 - (vi) Elders Statement copy charges;
 - (vii) Government duties or taxes;
 - (viii) (Costs and expenses incurred by Elders in collecting Elders Cards and/or;)
 - (ix) Payments including any debt collection fees and demand notice fees.

15. DELIVERY (ELDERS MERCHANDISE AND ELDERS LIVESTOCK ACCOUNTS ONLY)

- (a) You must sign a proof of delivery docket for each delivery of Goods and in doing so you confirm receipt of the Goods in good order and condition and the quantity supplied.
- (b) Claims for any shortage of Goods shall be brought to Elders attention within 24 hours of delivery. Any problems with the Goods shall be brought to the attention of Elders within 5 working days of the problem being discovered. Elders agree to address such problems as soon as practicable.
- (c) Elders or its agents will make every effort to deliver the Goods to you when required (and if your reasonable requirements are notified to Elders). Any dates for the delivery of the Goods provided by Elders are to be regarded by the parties to be approximate only and Elders accepts no liability for any loss, injury, damage or expense consequent upon any delay in the delivery of the Goods and you shall not be relieved from any obligation to accept the supply of the Goods by reason of any actual or perceived delay in the supply to you by Elders of the Goods.
- (d) Should Elders or its agents be prevented or delayed in the delivery of the Goods owing to any cause whatsoever beyond their control, including but not limited to acts of God, war, riots, strikes, lock outs, trade disputes, fire, breakdown or government action, Elders shall be at liberty to cancel or suspend the order at its absolute discretion without incurring any liability for loss or damage to you.
- (e) Elders reserves the right to deliver by instalments. Where the Goods are delivered in instalments Elders shall be entitled to payment for each instalment delivered (as if it were a separate contract) but failure to deliver any instalment by the date specified for the delivery shall not entitle you to cancel the contract as to any remaining instalments.
- (f) Elders shall select, where applicable and at your cost, the method of delivery. Where you require a specific form of delivery and Elders agrees to that method of delivery then you shall cover the costs of the specific delivery from the point of despatch to the point of delivery.
- (g) In the event that Elders incurs additional costs as a result of delay caused by you failing to give Elders proper instructions pertaining to the delivery of the Goods the price of such Goods may be increased at the discretion of Elders.

16. REVOLVING CREDIT CONTRACT

Elders Account facilities, unless provided otherwise, are revolving credit contracts and continued disclosure will be made in terms of Section 18 of the Credit Contracts & Consumer Finance Act 2003 provided that the maximum amount of credit permitted to you at any time shall be the Credit Limit.

17. SECURITY

- (a) Elders is defined (if applicable) as a "Secured Party" for the purposes of the PPSA. You are defined as a "Debtor" for the purposes of the PPSA.
- (b) The Secured Property and the Goods shall be further defined (if applicable) as "Collateral" or "Secured Property" for the purposes of the PPSA.
- (c) You charge the Secured Property and the Goods in favour of Elders as security for the payment of all moneys payable or to become payable by you to Elders and the performance of all your obligations under this Agreement.
- (d) You will promptly execute any document required by Elders to ensure that the charges created under or pursuant to these terms constitute a perfected Security Interest (as that term is defined in the PPSA) including but not limited to executing any amendments to these terms, except any replacement or additional agreement or security documents, and shall provide all such information that Elders reasonably requires to complete a Financing Statement or Financing Change Statement to satisfy all legal obligations outstanding as between the parties.
- (e) You undertake not to consent (where consent is required) to any other person filing a Financing Statement without the prior written consent of Elders.
- (f) You:
 - (i) acknowledge that where Elders has rights in addition to, or existing separately from, those in part 9 of the PPSA, those rights will continue to apply and in particular, will not be limited by Section 109 of the PPSA;
 - (ii) agree that nothing in Sections 110(a), 114(1)(a), 117(1) (c), 133 and 134 of the PPSA will apply to this Agreement or any Security Interest created by this Agreement;
 - (iii) **waive your rights to do any of the following:**
 - (1) **receive a statement of account under Section 116 of the PPSA or recover surplus under Section 119 of the PPSA;**
 - (2) **receive notice of Elders' proposal to retain the Goods or any of them under Section 120(2) of the PPSA or object to such proposal under Section 121 of the PPSA;**
 - (3) **not to have the Goods damaged when Elders removes an accession under Section 125 of the PPSA;**
 - (4) **receive notice of removal of an accession under Section 129 of the PPSA;**
 - (5) **apply to the Court for an order concerning the removal of an accession under Section 131 of the PPSA;**
 - (6) **redeem any of the Goods under Section 132 of the PPSA; or**
 - (7) **to receive a copy of the Verification Statement or a Financing Change Statement relating to any Security Interest created by this agreement;**
- (g) The charge created by this Agreement shall, to the maximum extent permitted by law in each case, constitute:
 - (i) A security interest over all your personal property, inclusive of all after acquired property;
 - (ii) A fixed charge over all your assets other than personal property, or over any personal property to which the security interest intended to be created by this Agreement is not at any time attached or is not legally of fully effective;
 - (iii) A floating charge over:
 - (1) All your other property other than the property and assets over which a security interest or fixed charge has been created by this agreement;
 - (2) Any part of your assets to the extent that the security interest or fixed charge intended to be created by this agreement may not otherwise attach or be legally or fully effective;
- (h) The charge created under this Agreement is an absolute assignment by way of Mortgage over, and shall take effect as a transfer and assignment of, your present or future accounts receivable;
- (i) Until all moneys owed by you to Elders under all your Elders Accounts have been paid, your Elders Accounts closed and all your obligations under this Agreement satisfied in full, you irrevocably give Elders and its agents the right to enter your property or any property occupied by you and where the Secured Property or the Goods are stored and to take possession of the Secured Property and the Goods. Elders shall not be responsible for any damage caused in the process of taking the Secured Property or the Goods and you will indemnify Elders against liability to any other party should Elders take the Secured Property or the Goods;
- (j) Elders may sell, let or bail the Secured Property or the Goods on such terms and conditions as Elders may determine at its absolute discretion and may prepare, sign and deliver any deed, agreement, transfer, instrument, tax invoice, tax receipt, statement or other documentation Elders considers necessary or expedient for the purposes of giving effect to its rights, powers, remedies and discretions under this Agreement;
- (k) If at any time you are in default under this Agreement, Elders may (in addition to and without prejudice to any of its other rights) appoint in writing (and remove, replace and fix the terms of appointment of) one or more receivers or receivers and managers (either jointly or jointly in severally) in respect of the Secured Property. Every receiver so appointed shall (in addition to any powers vested in them at law) have all the rights (mutatis mutandis) conferred on Elders under this Agreement. Every receiver will be your agent. You will be solely responsible for all acts or defaults (including as a result of misconduct or negligence) of every receiver.
- (l) Your Elders Account balance will be secured by any present or future securities given by you to Elders.
- (m) Elders may from time to time require you to provide additional security for your Elders Account.
- (n) Execution of securities of any nature between you and Elders shall not in any way affect or prejudice Elders' rights under this Agreement.
- (o) Words in this clause shall, if the context permits, have the meanings given to them by virtue of the PPSA.

18. TITLE AND RISK (ELDERS MERCHANDISE AND ELDERS LIVESTOCK ACCOUNTS ONLY)

- (a) Risk in all the Goods shall pass to you on despatch from Elders' premises or from premises that are under Elders' control and/or care at that time, unless being delivered by carrier contracted to Elders (unless any damage is directly as a result of any gross negligence or wilful or unauthorised act of Elders or any of its employees or authorised agents). Where Elders has contracted the carrier then the risk in any Goods shall pass to you at the time of the delivery of the Goods.
- (b) In so far as the provisions of the Personal Property Securities Act 1999 do not apply, the ownership, title and property in the Goods remain with Elders until payment in full has been received and in cleared funds.
- (c) You may on sell the Goods (as fiduciary agent for Elders) notwithstanding the fact that Elders retains title and property in the Goods. Any funds received or debts owing to you from the on-sale of the Goods by you shall be taken and held by you as fiduciary agent of Elders. Those funds shall be paid into a separate account for which separate records are held. Those proceeds shall be the property of Elders.
- (d) You shall maintain the Goods supplied in good order and return the Goods immediately if called upon to do so by Elders.
- (e) Your authority to on-sell, affix, mix or process the Goods shall cease upon any of the following events:
 - You commit an act of bankruptcy as defined by the Insolvency Act 1967 or the Insolvency Act 2006 (which ever is in force at the relevant time);
 - You are issued with bankruptcy proceedings;
 - You are put into receivership;
 - You receive notice that another party intends to put you into receivership; or
 - A liquidator is appointed to you.
- (f) Until payment is made for the Goods in full, you irrevocably give Elders and its agents the right to enter your property or any property occupied by you and where the Goods are stored and to take possession of the Goods. Elders shall not be responsible for any damage caused in the process of taking the Goods and you will indemnify Elders against liability to any other party should Elders take the Goods.
- (g) If the Goods supplied to you are in premises not owned by you then you shall obtain the agreement of such property owners to Elders' right under Clause 20 (f).
- (h) Should any conditions in this clause or any part of them be held by a Court to be ineffective by virtue of non registration, illegality or otherwise, then such condition, or part of it, shall be severed there from without affecting the validity or enforceability of all other conditions or part of them.

19. STATEMENTS/NOTICES

- (a) Elders will provide Elders Statements showing all Transactions on your Elders Accounts during the Elders Statement period.
- (b) Statements will be sent to your last recorded address as advised in writing to Elders or, in the case of Elders Livestock Accounts, presented to you at the time of delivery of the Goods. You must advise Elders in writing of any change of address.
- (c) You should check all entries on your Elders Statement on receipt and advise Elders promptly of any errors. Unless you object in writing to any of the charges on your Elders Statement within 14 days of receipt of such Elders Statement, you shall be deemed conclusively to have accepted all the charges contained in such Elders Statement as true and accurate in all respects. However this provision does not constitute a waiver of Elders' rights at its option to correct your Elders Statement should an error be detected at any time.
- (d) Any demand or notice to you hereunder may be made in writing addressed to you and signed on behalf of Elders by an attorney, officer, manager, agent or solicitor and shall be deemed to have been duly served if:
 - (i) Delivered to you personally;
 - (ii) Addressed to you and delivered;
- (e) Notices may be given to you at the address completed your application for an Elders Account or such other address as you may advise Elders from time to time in writing and shall be deemed to have been received by you:
 - (i) In the case of delivery, upon delivery;
 - (ii) In the case of a facsimile or email, upon transmission; and
 - (iii) In the case of mail, three days after posting.

20. CHANGES TO INTEREST RATES, FEES AND CHARGES AND TERMS AND CONDITIONS

Elders may change the interest rates and these Terms and Conditions and any component of your Elders Account at any time and will give you 30 days notice of changes to these Terms and Conditions and 14 days notice prior to any change in the interest rates or any other component of your Elders Account. Such notice may be included on your Elders Statement, by posting notification to your last recorded address and/or public notice by newspaper advertisement.

21. JOINT LIABILITY

Where an Elders Account has been issued in joint names each Accountholder or, where a Guarantor has agreed to guarantee the Elders Account, each Accountholder and Guarantor is jointly and severally responsible for all obligations in respect of the Elders Account.

22. NO ASSIGNMENT

- (a) Elders shall have the right to assign its rights under this Agreement without your consent.
- (b) You may not assign any of your rights or obligations under this Agreement without the consent of Elders. The decision of Elders shall be absolute and unilateral.

23. PRIVACY ACT

- (a) Any information received about you by Elders will be held by Elders and may be accessed and corrected by you under the Privacy Act 1993. This information may be used by Elders to offer or provide you with information about Elders' products and services and those of selected third parties, for the purpose of considering your application for an Elders Account and operating your Elders Account.
- (b) Elders is authorised, during the currency of this Agreement, by you to make any enquiries from any person or company concerning your credit record, residence, employment, financial status, or any information provided by you in your application for an Elders Account and you authorise any person or Company so approached to provide such information to Elders.
- (c) In the event of default by you under any of these Terms and Conditions or this Agreement, Elders may:
 - (i) List you as a defaulter with credit reference agencies (prior notice in writing of Elders' intention to do so will be given to your last known address);
 - (ii) Use the services of enquiry agents; and
 - (iii) Place the debt with a collection agent.
- (d) Elders does not need to inform you of any of the above matters in any future dealings Elders may have with you.

24. INDEMNITY

You agree to indemnify Elders against any liability for any direct, indirect or consequential injury, loss or damage arising out of any act or default or omission if, or any representations made by you or by a servant or agent of you.

25. CONSUMER GUARANTEES ACT 1993

- (a) Where any Goods are acquired from Elders for a business purpose, you agree that the Consumer Guarantees Act 1993 (in this clause "the Act") shall not apply to those Goods. Where the provisions of the Act apply and there is any conflict with these Terms and Conditions then the Terms and Conditions shall be read subject to the Act.
- (b) Where you supply any Goods to any third party and that supply would otherwise be subject to the provisions of the Act and you acquire or hold yourself out as acquiring the Goods for business purposes in terms of sections 2 and 43 of the Act then you will obtain the agreement of your customer that the Act will not apply to that supply.
- (c) Where you fail to comply with the preceding sub clause, you will indemnify Elders against any liability incurred by Elders arising out of that failure.

26. LIMITATION OF LIABILITY

- (a) The liability of Elders in any case of:
 - (i) a claim for any discrepancy or shortage in items delivered (to be made within the timeframes of this Agreement);
 - (ii) claim in relation to any disputes as to items supplied to you (to be made within the timeframes of this Agreement);
 - (iii) a claim in respect of items which are found to be defective;
 - (iv) a claim in respect of the provision of all or any part of the Goodsshall be limited to the contract price owed by you to Elders and Elders shall have no further liability or responsibility for any direct, indirect or consequential injury, loss or damage whatsoever and howsoever arising, provided that this clause shall not prevent any person who is a consumer from exercising any remedies that a consumer has under the Consumer Guarantees Act 1993.
- (b) To the extent that they may be applicable sections 6 to 10 inclusive of the Contractual Remedies Act 1979 are hereby expressly excluded and in the event of any liability of whatsoever nature being established against Elders in any way under this Agreement your remedies shall be limited to the remedies provided by these terms and conditions provided however that where the terms and conditions herein do not provide a remedy for matters referred to in sections 6 to 10 inclusive of the Contractual Remedies Act 1979 your sole and exclusive remedy for misrepresentation or repudiation or breach of contract or for any other of the matters to which sections 6 to 10 inclusive relate shall be damages and such damages shall be limited to the maximum sum of the contract price between you and Elders.

27. STATEMENT OF RIGHT TO CANCEL

- (a) The Credit Contracts and Consumer Finance Act 2003 gives you a right for a short time after the terms of this Agreement have been disclosed to you to cancel the Agreement.
- (b) How to cancel:

If you want to cancel this Agreement you must give written notice to Elders. You must also:

 - (i) return to Elders any advance and any other property received by you under the Agreement (but you cannot do this if you have taken possession of any Goods or if you bought any property at an auction or if the Agreement is for the sale of services that have been performed); or
 - (ii) pay the cash price of the Goods within 15 working days of the day you give notice.

You must also return to Elders any advance and any Goods or other property received by you under this Agreement.
- (c) Time Limits for Cancellation:
- (d) If the disclosure documents are handed to you directly you must give notice that you intend to cancel within 3 working days after you receive the documents.
- (e) If the disclosure documents are sent to you by electronic means (for example, e-mail) you must give notice that you intend to cancel within 5 working days after the electronic communication is sent.
- (f) If the documents are mailed to you, you must give the notice within 7 working days after they were posted.
- (g) Saturdays, Sundays and national public holidays are not counted as working days.
- (h) What you may have to pay if you cancel:
 - (i) If you cancel this Agreement Elders can charge you:
 - (i) the amount of any reasonable expenses Elders had to pay in connection with this Agreement and its cancellation (including legal fees and fees for credit reports, etc.); and
 - (ii) Interest for the period from the day you received the Goods until the day you either pay the cash price for the Goods or return the Goods to Elders.
 - (iii) Interest for the period from the day you receive the advance until the day you repay the advance.
 - (j) This statement only contains a summary of your rights and obligations in connection with the right to cancel. If there is anything about your rights or obligations under the Credit Contracts and Consumer Finance Act 2003 that you do not understand, if there is a dispute about your rights, or if you think that Elders is being unreasonable in any way, you should seek legal advice immediately.