CONFIDENTIAL SUPPLY AGREEMENT

THIS AGREEMENT made the_____ day of _____20_____

BETWEEN **cura[1] Pty Ltd (ACN 007 603 161)** of **10 GRAY STREET KILKENNY STH AUST 5009** (The Supplier)

AND_____of_____
(The Customer)

WHEREAS –

(a) The customer has applied to the Supplier to:

(i) either establish a credit trading account with the Supplier, in which event, it has provided the information and financial particulars hereinafter set out ("the Credit Information"); or

(ii) establish a cash account.

(b) In the event of a credit trading account, The Supplier having considered the application material, and relying upon the veracity of that material, has agreed to grant the Application to the Customer on the terms and conditions set out in this agreement.

(c) In the event of a cash account, the Supplier has agreed to supply the Customer on the terms and conditions set out in this agreement.

COMPANY

Registered Name of Company: A.B.N:

_____ _____

Trading Name (if any)

_____

Postal Address:

_____

Business Address:

_____

Telephone: (__) _____

Email: _____

Invoices/Statements Accounts Email:_____

DIRECTORS PRIVATE ADDRESS PHONE

1)_____

2)_____

3)_____

Premises: Owned, Leased, Mortgaged _____ Estimated Monthly Purchases_____

TRADE REFERENCES / CREDIT PROVIDERS

NAME PHONE EMAIL

1)_____

2)_____

3)_____

SOLE TRADER / PARTNERSHIP

Registered Name of Sole Trader / Partners: A.B.N:

_____ _____

Trading Name (if any)

_____

Postal Address:

_____

Business Address:

_____

Telephone: (__) _____

Email: _____

Invoices/Statements Accounts Email:_____

SOLE TRADER / PARTNERS PRIVATE ADDRESS PHONE

1)_____

2)_____

3)_____

Premises: Owned, Leased, Mortgaged _____ Estimated Monthly Purchases_____

TRADE REFERENCES / CREDIT PROVIDERS

NAME PHONE EMAIL

1)_____

2)_____

3)_____

BACKGROUND

A The Supplier is active in the production and supply of the Products, and has over a number of years of trading acquired considerable goodwill in the exclusive supply of the Products to the market.

B. The Supplier and the Customer have entered into this Supply Agreement, whereby the Supplier shall supply the Products to the Customer, subject to, and in compliance with the covenants contained in those documents.

1. Definitions and Interpretation

1.1 In this document, unless the contrary intention appears:

Agreement means this document;

Business Day means each day of the week except Saturday, Sunday and public holidays within the State of South Australia;

Force Majeure means, in relation to either Party, any circumstances beyond the reasonable control of that Party including, without prejudice to the generality of the foregoing, any flood, fire, earthquake, typhoon, war, strike, lock-out or other form of industrial action, pandemic, or compliance with any law;

GST means GST as defined in the GST Act;

GST Act means *A New Tax System (Goods and Services Tax) Act* 1999 as amended;

Intellectual Property means the Trade Marks and any patent, copyright, registered design, manufacturing know-how or other industrial intellectual property right belonging to the Supplier or any related entity or related party thereto, and includes applications for any of the foregoing;

Parties means the Supplier and the Customer and ***Party*** means either of them;

Products means the products manufactured and/or sold and/or distributed by the Supplier from time to time;

Restricted Information means any confidential information that is disclosed by either Party to the other in connection with this Agreement (whether orally or in writing, and whether or not expressly stated to be confidential or marked as such), and includes without limitation, any formulae, business secrets and merchandising and know-how;

Trade Marks means the various marks and distinguishing features, which are used by the Supplier on or in relation to the Products, and includes, without limitation, all trade names, trademarks, service marks, logos, emblems and indicia of origin;

2. Supply of Products to the Customer

2.1. The Supplier hereby agrees that it may supply the Customer subject to the terms of this Agreement.

2.2. Delivery of the Products by the Supplier to the Customer shall be deemed to have been duly made on and from the time that the Customer takes possession of the Products, and any and

all risk of loss or damage to the Products shall pass to the Customer upon the Customer taking possession of the Products.

2.3. Notwithstanding delivery and the passing of risk in the Products, the property in, and title to the Products shall not pass to the Customer until the Supplier has received payment in full of the price of the Products (and any other Products purchased by the Customer from the Supplier) and (if applicable) any interest payable thereon.

2.4. Notwithstanding anything hereinbefore contained, the Supplier may refuse to fill or satisfy an order placed by the Customer in its absolute discretion, which refusal by the Supplier shall not give rise to any claim action or demand against the Supplier consequent upon such refusal.

3. Customer restraints covenants and acknowledgements

3.1. Restraints

In consideration of the Supplier agreeing to supply the Products to the Customer, the Customer hereby warrants, agrees and undertakes that it shall not:

(a) use any Trade Marks in its own name, nor hold itself out as the Supplier's agent for sales of the Products, or as being entitled to bind the Supplier in any way;

(b) make any representation or do any act which may be taken to indicate that it has any right, title or interest in or to the ownership or use of the Trade Marks, except in accordance with the provisions of this Agreement.

(c) make any modifications, alter or tamper with the Products;

(d) do or authorise any third party to do, any act that would or might invalidate or be inconsistent with the Intellectual Property and shall not omit or authorise any third party to omit or do any act that, by its omission, would have that effect or character;

(e) attempt to copy, reverse engineer or allow any related entity, related party or third party to copy or reverse engineer the Products as supplied to the Customer by the Supplier.

3.2. Covenants

The Customer hereby further covenants and agrees that it shall:

(a) represent and on-supply the Products to third parties in accordance with the recommendations of the Supplier;

(b) provide any assistance reasonably required by the Supplier in the event that the Supplier is made subject to any legal action by a third party in relation to any matter relating to the Products sold by the Customer by the Supplier;

(c) maintain a policy of public liability insurance in an amount not less than $20,000,000.00 in relation to the Products;

(d) furnish the Supplier with full particulars of all details, designs, plans of all and any products in its possession or planned with features reasonably similar to that of the Products, or any one thereof;

(e) provide to the Supplier with full particulars six (6) months' notice in advance of the sourcing of any product with features reasonably similar to that of the Products or any one thereof;

(f) fully and promptly inform the Supplier of any actual, threatened or suspected infringement of the Intellectual Property coming to its notice;

(g) do all things as may be reasonably required by the Supplier to assist the Supplier in taking or resisting any proceedings in relation to any such infringement of the Intellectual Property

(h) in the event of any litigation relating to the Intellectual Property, execute any and all documents and do such acts as may, in the opinion of the Supplier, be necessary to carry out such defence or prosecution, including, without limitation, becoming a party to any legal action;

(i) take all such steps at its expense as the Supplier may reasonably require to assist the Supplier in maintaining the validity and enforceability of the Intellectual Property during the continuance of this Agreement.

3.3. Acknowledgements

The Customer acknowledges that:

(a) nothing in this Agreement shall entitle the Customer to:

(i) any priority of supply in relation to the Products as against other parties supplied by the Supplier; and

(ii) any right of remedy against the Supplier if any of the Products are sold by the Supplier to any other party

(iii) any rights in respect of the Intellectual Property or of the goodwill associated with the Products;

(b) it may use the Trade Marks solely in connection with the sale of the Products, and must observe any reasonable directions given by the Supplier from time to time in relation to the use thereof;

(c) the Intellectual Property is the sole and exclusive property of the Supplier, and that, except as expressly provided in this Agreement, the Customer shall not acquire any rights in respect thereof and that all such rights and goodwill are, and shall remain, vested in the Supplier;

(d) the Supplier has the right to direct and control any administrative proceeding or litigation involving the Intellectual Property, including any settlement thereof;

(e) the Supplier has the right, but not the obligation, to take action against uses by others that may constitute infringement or claim of the Intellectual Property;

4. Indemnity, release and exclusion of liability

4.1. Indemnity

Except to the extent the same arises consequent upon the act or omission of the Supplier, the Customer shall indemnify and keep the indemnified the Supplier and its agents, employees and contractors from and against all and any actions claims demands losses damages costs and expenses whatsoever for which the Supplier and its agents, employees and contractors shall or may suffer, incur or sustain in connection with or relating to:

(a) the death of or injury to any person or loss of or damage to the property of any person arising from or out of any occurrence in relation to the Products;

(b) the exercise or attempted exercise of any of the rights authorities powers or remedies which are exercisable by the Supplier under this Agreement;

(c) a failure by the Customer to comply with its obligations under this Agreement;

(d) any action or non-action whatsoever on the part of the Customer or any of its agents, employees or contractors

(e) any act or omission (including negligent act or omission), neglect or default of the Customer or any of its agents, employees or contractors;

4.2. Release and Exclusion

The Customer shall purchase the Products wholly at its risk, and agrees that the Supplier shall have no responsibility or liability (other than as manufacturer and supplier of the Products), and the Supplier is fully released from all responsibility or liability for any loss of or damage sustained by the Customer, including without limitation consequential and economic loss suffered unless caused or contributed to by the negligence of the Supplier AND THE CUSTOMER FURTHER ACKNOWLEDGES THAT to the extent permitted by law, the Supplier's liability for any act or omission relating to the manufacture or supply of the Products, and their resale by the Customer shall be limited to one of the following at the election of the Supplier:

(a) replacement of the Products or supply of equivalent products; and

(b) payment of the cost of replacing the Products or acquiring equivalent products.

5. Price and Payment

5.1 The prices for all the Products to be supplied in accordance with this Agreement shall be at the prevailing price list issued by the Supplier from time to time, subject to modification, which prices shall be exclusive of transportation charges, and, goods and services tax or any other applicable taxes, duties or charges (if applicable), all of which shall be borne wholly by the Customer.

5.2 The prices for any of the Products may be altered at any time by the Supplier at any time in accordance with:

(a) such prices as may be negotiated between the Customer and the Supplier from time to time; and

(b) such prices as may be issued by way of price lists released by the Supplier from time to time.

5.3 The Customer shall pay the whole of the price of such Products which are the subject of any order made by the Customer:

(a) within 30 days of the end of the relevant month in which the Tax Invoice is issued by the Supplier for any order made by the Customer (unless otherwise agreed between the Supplier and the Customer), and in accordance with the directions stipulated in that Tax Invoice; or

(b) otherwise as may be governed by this Agreement and determined by the Supplier.

6. Default by Customer

6.1. In the event the Customer fails to pay the price for any Products in accordance with the terms of this Agreement, the Supplier shall, without prejudice to any other remedies it may have against the Customer under this Agreement or otherwise, be entitled to:

(a) cancel or suspend any further delivery of the Products to the Customer under any order; and

(b) charge the Customer interest at that rate equal to the cash rate target increased by Two (2%) percentage points, the Cash Rate target meaning the percentage or minimum percentage specified by the Reserve Bank of Australia as the Cash Rate target.

6.2 In the event the Customer breaches its obligations under clause 3 or 4:

(a) it consents to immediate injunctive relief in the event of any breach of its obligations under this Agreement;

(b) will pay the Supplier damages (as may be assessed by a Court of competent jurisdiction) in all the circumstances;

(c) will indemnify the Supplier in relation to all costs (legal or otherwise) incurred consequent upon such breach.

7. Advertising and sale of Products

7.1 The Customer shall:

(a) use its best endeavors in maintaining the brand image and reputation of the Supplier, including but not limited to its Trademarks, Intellectual Property and Products;

(b) as and when directed to do so by the Supplier, immediately cease marketing and/or sale of the Products in any manner or place that the Supplier determines in its absolute discretion may lower or bring into disrepute the brand image associated with the Products;

(c) make clear in all dealings with its customers and prospective customers, that it is acting in its capacity as the Customer of the Products within the scope of this Agreement and not as agent or distributor of the Supplier.

8. Charge

The Customer hereby charges the land upon which the goods are situated or the work carried out and other land owned or in the future acquired by the Customer from time to time and the Customer agrees immediately upon being required by the Supplier to enter into a mortgage to be prepared by the Supplier's solicitors on the terms and conditions as the Supplier's solicitor shall think fit to secure any

sum due hereunder and the customer further agrees and permits and authorises the supplier to register a caveat over any land now owned by the Customer or in the future acquired by the Customer to secure any sum due hereunder at any time during the continuance of the Agreement.

9. Personal Property Securities (PPS) Law

9.1. In this clause, "**PPS Law**" means the Personal Property Securities Act 2009 (Cth) (PPS Act) and any regulation made at any time under the PPS Act;

9.2. If the PPS Law applies or commences to apply to this Agreement as determined by the Supplier in its absolute discretion, the Supplier may give Fourteen (14) notice to the Customer requiring the Customer attend to all matters that in the Supplier's opinion is necessary in connection with the application of the PPS Law and the Customer shall comply with the requirements of that notice.

9.3. The Customer agrees to attend to all matters (such as obtaining consents, completing, signing and producing documents and supplying information) which the Supplier considers necessary for the purposes of:

(a) ensuring that the Agreement is effective and the property interests of the Supplier otherwise enforceable;

(b) enabling the Supplier to apply for any registration, or give any notification, in connection with the Agreement so that it has the priority required by the Supplier; and

(c) enabling the Supplier to exercise its rights and powers under this Agreement.

9.4. The Supplier need not give any notice under the PPS Law (including a notice of a verification statement) unless the notice is required by the PPS Law and cannot be excluded.

9.5. The Customer will promptly take all reasonable steps which are prudent for its business under or in relation to PPS Law, including doing anything reasonably requested by the Supplier for that purpose.

10. Privacy Act Acknowledgment that credit information may be given to a credit reporting agency,

10.1. The Customer acknowledges that section 18E(8)(c) of the Privacy Act allows the Supplier to give credit reporting agency certain private information about the Customer, whether it is a credit account, or a cash account;

10.2. The information which may be given to an agency is covered by section 18E(1) of the Act and includes but is not limited to:

(a) particulars identifying the Customer,

(b) the fact that the Customer has applied for credit and the amount thereof;

(c) the fact that the Supplier may be a credit provider to the Customer,

(d) payments which become overdue more than 60 days,

(e) advice that payments are no longer overdue,

(f) in specified circumstances, that in the opinion of the Supplier, the Customer has committed a serious credit infringement,

(g) that the credit provided to the Customer by the Supplier has been discharged.

11. Authority for the Supplier to obtain certain credit information

To enable the Supplier to assess the Customer application for commercial or personal credit, the Customer authorises the Supplier as follow:

11.1. if requested to provide commercial credit, to obtain from a credit reporting agency a credit report containing private credit information about the Customer, in accordance with section 18K(1)(b) of the Act.

11.2. if asked to provide personal credit, to use a credit report containing information about the customers commercial activities or commercial creditworthiness from a business which provides information about the commercial creditworthiness of a person in accordance with section 18L(4) of the Act.

12. Authority to exchange information with other credit providers

12.1. In accordance with section 18N(1)(b) of the Act, the Customer authorises the Supplier to give to and receive from the credit providers hereinbefore named, or that may be named in a credit report issued by a credit reporting agency, information in the supplier's possession or the other credit provider's possession about the Customer's creditworthiness, credit standing, credit history, and credit capacity.

12.2. The customer acknowledges the information may be used to:

(a) assess any application for credit by the Customer

(b) assist the Supplier in avoiding default on the Customer's credit obligations;

(c) notify other credit providers of a default by the Customer;

(d) assess Customer's creditworthiness.

13. Claims and Returns

13.1. Any claims by the Customer in relation to the Product must be made within seven days of delivery of the Product.

13.2. Any returns of Product can only be made:

(a) with the prior approval of the Supplier; and

(b) where such a return is made, a 25% restocking fee will be deducted for any returned Product.

14. Term of Agreement

This Agreement shall commence on the date of this Agreement and shall continue until such time as terminated as set out herein.

15. Termination

15.1 This Agreement may be terminated by either party giving to the other sixty (60) days written notice at any time during the term of this Agreement, which right to terminate, if exercised, shall be without prejudice to any other right or remedy of the Supplier in respect of any breach by the Customer.

15.2 Upon the termination of this Agreement for any reason:

(a) all unfulfilled orders placed by the Customer with the Supplier prior to the date of termination shall be deemed to be cancelled;

(b) all outstanding unpaid Tax Invoices rendered by the Supplier in respect of the Products shall become payable by the Customer within 30 days of the date of termination, and all Tax Invoices in respect of Products ordered prior to termination but for which an invoice in respect of Products ordered prior to termination but for which a Tax Invoice has not been submitted shall be payable immediately upon submission of that Tax Invoice;

(c) the Customer shall cease to promote, market, advertise, or sell the Products;

(d) the Customer shall have no claim against the Supplier for any loss, including economic loss;

(e) the provisions of clauses 3.1, 3.2, 4.1, and 4.2 hereof shall endure and continue in force;

(f) subject as otherwise provided herein, and to any rights or obligations which may have accrued prior to termination neither Party shall have any further obligation to the other under this Agreement.

16. GST

Notwithstanding anything to the contrary in this Agreement, any amount that may be payable by either Party to the other in this Agreement is exclusive of any GST. If either Party makes a Taxable Supply in connection with this Agreement for a Consideration which represents its Value, then the other Party may also pay, at the same time and in the same manner as the Value is otherwise payable, the amount of any GST payable in respect of the Taxable Supply. A Party's right to payment under this Clause is subject to a valid Tax Invoice being delivered to the other Party. Except for defined terms in this Agreement, capitalised expressions have the same meaning as in the GST Act.

17. Costs

Other than as provided for in this agreement, each party shall bear its own costs.

18. Assignment

18.1 This Agreement is personal to the Customer and the Customer shall not, assign or dispose of any of its rights hereunder, and where the Customer is a corporate entity, an assignment shall be deemed to have occurred upon the change in control, being the power to direct or cause the direction of the management and policies of the Customer through the ownership of shares comprising more than 35 per cent of the voting shares of the Customer.

18.2. The Supplier may assign any or all of its interest and/or responsibilities under this agreement to any other entity in the absolute discretion of the Supplier.

19. Nature of Agreement

19.1 Nothing in this Agreement shall create, or be deemed to create, a partnership or the relationship of employer and employee or agent and principal as between the Parties.

19.2 No failure by either Party to exercise any right conferred on it under the provisions of this Agreement shall constitute a continuing waiver of such right, or a waiver of any other right that it may have and such Party may subsequently take advantage of such right unless otherwise expressly provided by that Party in writing.

19.3 This Agreement constitutes the entire agreement between the parties;

19.4 If any provision of this document is held by any Court or other competent authority to be void or unenforceable in whole or part, this document shall continue to be valid as to the other provisions therein and the remainder of the affected provision.

20. Notices

All notices, consent and other communications hereunder shall be provided in writing and shall be delivered personally, by registered mail (return receipt requested) or by email or similar method of communication.

21. Confidentiality

21.1 Except as provided in clause 21.2, the Parties shall at all times during the continuance of this Agreement and after its expiry or termination:

(a) keep all Restricted Information confidential, and accordingly, not disclose any Restricted Information to any other Person except for the Parties' professional advisers for the sole purpose of providing professional advice;

(b) shall cause their employees and agents to comply with such duty of confidentiality; and

(c) not use any Restricted Information for any purpose other than the exercise of their rights and performance of their obligation under this Agreement.

21.2 The Parties shall at all times during the continuance of this Agreement and after its expiry or termination, keep the terms of this Agreement confidential.

21.3 Except as required by law, the duty of confidentiality in clauses 21.1 and 21.2 shall endure until either Party can reasonably demonstrate to the other that the Restricted Information (or part thereof) received from the other is or has become, part of the public domain through no act or default on the part of the recipient, its employees and/or agents, whereupon, the extent that the Restricted Information (or such part thereof) is public, the duty of confidentiality shall cease.

22. Governing Law

This Agreement is governed by the laws of the State of South Australia, Australia. Each party unconditionally submits to the non-exclusive jurisdiction of the courts in South Australia.

23. Force Majeure

23.1 If either Party is affected by Force Majeure, it shall forthwith notify the other Party of the nature and extent thereof, following which the Parties shall enter into bona fide discussions with a view to alleviating as may be fair and reasonable.

23.2 Neither Party shall be deemed to be in breach of this Agreement, or otherwise be liable to the other, by reason of any delay in performance or non-performance, or any of its obligations hereunder to the extent that such delay or non-performance is due to any Force Majeure of which it has notified the other Party, and the time for performance of that obligation shall be extended accordingly

23.3 For the avoidance of doubt, the provisions of clauses 3 and 4 hereof shall endure and continue in force in any event, and notwithstanding any Force Majeure event.

EXECUTION

EXECUTION BY SUPPLIER

EXECUTED by
cura1 Pty Ltd
(ACN 007 603 161)
in accordance with Section 127 of the Corporations Act 2001:

_____
Signature of authorised representative

_____
Name of authorised representative

……

EXECUTION BY CUSTOMER

EXECUTED by company

_____

(ACN _____**)**
in accordance with Section 127 of the Corporations Act 2001:

_____
Signature of authorised representative

_____
Name of authorised representative

EXECUTED by sole trader/partnership (by its authorised partner for this purpose)

_____
Signature of sole trader / authorised partner

_____
Name of sole trader / authorised partner

DEED OF GUARANTEE AND INDEMNITY

GRANTED BY THE PARTIES HEREINAFTER SET OUT AND GRANTED TO CURA[1] PTY LTD (THE SUPPLIER)

_____
Name of Guarantor:

_____
Address:

_____ _____
Date of Birth: Driver's License No:

_____
Name of Guarantor:

_____
Address:

_____ _____
Date of Birth: Driver's License No:

herein after referred to as 'the Guarantor'

In consideration of the Supplier agreeing to:

- entering into the Confidential Supply Agreement attached hereto;
- supply or continue to supply goods or services to the Customer described in the Confidential Supply Agreement ("the Customer"); or
- provide credit to Customer; or
- grant an indulgence to the Customer outside the Supplier's agreed terms.

The Guarantor hereby:

1. Agrees to guarantee to the Supplier:
   (a) the due and punctual payment of all money presently owing or that in the future may be owing by the Customer, in respect of the cost of goods or services supplied by the Supplier to the Customer pursuant to the Supplier's Supply Agreement;
   (b) the performance and observance by the Customer of the covenants, terms and conditions contained in the said Agreement and on the Customer's part to be performed and observed.

2. Agrees as a separate severable and additional covenant and obligation to indemnify and keep the Supplier indemnified from and against all losses, costs, charges and expenses whatsoever that the Supplier may suffer or incur in relation to the supply of goods or services to the Customer, or consequent upon the Customer's failing to observe and perform the covenants, terms, and conditions contained in this Agreement, and on the Customer's part to be performed and observed;

3. Agrees that this Guarantee is a continuing guarantee, and this Indemnity is a continuing indemnity.

4. Neither will be discharged or deemed to be discharged in any way by any payment to the Supplier other than the payment in full of the whole of the guaranteed money, or upon the Customer's performance and obligations of the covenants, terms and conditions contained in the Agreement.

5. Agrees that the Guarantor is liable to the Supplier as a principal and primary debtor for the performance of the Guarantor's obligations under this Agreement.

6. Agrees that this Guarantee and Indemnity and the liability of the Guarantor continues and may be enforced by the Supplier notwithstanding:

   1) that no steps or proceedings have been taken against the Customer;

   2) any indulgence or extension of time granted by the Supplier to the Customer;

   3) the death or bankruptcy or winding up of the Customer;

   4) that payment of the guaranteed money by the Customer cannot be legally enforced against the Customer.

7. The singular includes the plural and if there is more than one Guarantor listed above, their obligations are joint and several.

Date: _____

Signed sealed and delivered by:

_____

In the presence of

_____

Name & Signature of Witness

Signed sealed and delivered by:

_____

In the presence of

_____

Name & Signature of Witness