

PAINT AND DECOR LIMITED

APPLICATION TO OPEN CREDIT ACCOUNT

FAX TO: (09) 274 0940

LIMITED COMPANY

PARTNERSHIP

SOLE TRADER

TRADING NAME		
ADDRESS		
TELEPHONE NUMBER		
FACSIMILE NUMBER		
NATURE OF BUSINESS		
BANKER		
BRANCH		
NAME OF COMPANY DIRECTORS / OWNERS (PRIVATE ADDRESSES AND PHONE NUMBERS)		
1.		
2.		
3.		
4.		
CREDIT REFERENCES (NAMES, ADDRESSES & PHONE NUMBERS)		
1.		
2.		
3.		
4.		
PREVIOUS SUPPLIER NAMES		
1.		
2.		
3.		
MAXIMUM AMOUNT OF CREDIT REQUESTED \$ _____ per month		
PERSONS ENTITLED TO CHARGE THIS ACCOUNT (NAME & SPECIMEN SIGNATURE)		
1.		
2.		
3.		
4.		
DELIVERY ADDRESS		

I / We hereby agree to abide by the terms and conditions of Paint and Decor Limited attached herewith and understand that in the event of the application being accepted all accounts are to be paid by the 20th of the month following despatch of the goods.

APPLICATION:

These terms and conditions of sale shall apply to every contract for the sale of goods ("the goods") to the person or organisation buying the goods ("Buyer") which are made by Paint and Décor Ltd. ("Paint and Décor Ltd") and shall not be deemed on construed to be modified, rescinded or waived in whole or in part except by written amendment by the parties.

PRICE

The purchase price of the goods shall be the ruling at the date of delivery unless otherwise agreed in writing between the parties.

Unless otherwise stated the purchase price is exclusive of goods and service tax, sales tax, or any other taxes, import duties, levies, tariffs, freight or insurance charges which if applicable are an extra charge and are payable on the date on which the price is payable.

PAYMENT

Payment is to be made on the 20th of the month following the date of dispatch of the goods ("due date").

Should payment in full not be paid to Paint and Décor Ltd by the due date, then:

- (a) Paint and Décor Ltd may charge the Buyer interest on the outstanding account at a rate equal to 6 per cent per annum above the indicator lending rate of *WestpacTrust* for the period during which payment has been overdue calculated on a daily basis until the date payment is received by Paint and Décor Ltd.
- (b) Paint and Décor Ltd reserves the right to suspend or cancel deliveries of the goods to the Buyer.

DELIVERY:

Paint and Décor Ltd does not guarantee delivery, and any time or date for delivery given by Paint and Décor Ltd is intended only as an estimate, and Paint and Décor Ltd is not responsible for the consequences of delay or non-delivery however arising.

The goods may be delivered in instalments, and in such case each delivery shall be regarded as a separate contract and the goods delivered shall be paid for accordingly.

If the Buyer fails or refuses to accept delivery, then the goods shall be deemed to have been delivered when Paint and Décor Ltd were willing to deliver them and the Buyer shall nevertheless make any payments provided herein upon the basis that such delivery has been effected.

Where delivery is effected in containers, the Buyer will be responsible for the prompt unpacking and return of the containers. Any costs arising from the delay in unpacking and return of these containers will be an extra charge.

The method of transportation is at Paint and Décor Ltd option. If the Buyer wishes to nominate the transporter any additional costs shall charged as an extra and all such transport shall also be at the Buyers risk.

GOODS FOR RETURN:

No goods may be returned by the Buyer to Paint and Décor Ltd after the expiration of seven days from the date of receipt.

Where Paint and Décor Ltd does accept the goods for return, the cost for the return shall be to the Buyer's account, and Paint and Décor Ltd may charge the Buyer a handling fee of 10% of the value of goods returned.

Where Paint and Décor Ltd have manufactured goods to the Buyer's specification or the Buyers instructions then the goods are non-returnable and no refund is available.

DAMAGE OR LOSS IN TRANSIT:

If when taking delivery at its premises or otherwise, the Buyer signs a clean receipt for the goods which later are found to have been damaged or lost in transit, thereby prejudicing a possible claim on a third party, Paint and Décor Ltd shall not be responsible for any loss or damage involved.

RISK:

Notwithstanding that property and title in the goods remain with Paint and Décor Ltd, the risk of any loss or damage or deterioration of the goods due to any cause whatsoever shall be borne by the Buyer from the time of delivery to a carrier nominated by Paint and Décor Ltd for delivery to the Buyer.

DAMAGES:

In no circumstances whatsoever shall Paint and Décor Ltd be liable for any loss or damage direct or indirect consequential or otherwise, howsoever arising, whether suffered by the Buyer or any third party beyond the invoice value of the goods and no such loss or damage will be recoverable by the Buyer in any event, unless he gives written notice of his claim to Paint and Décor Ltd within seven days of receipt of goods or of the occurrence of the claimed damage.

WARRANTY:

Goods are guaranteed to be of merchantable quality. Any warranties or conditions, statutory or otherwise, as to the goods quality or fitness for any purpose are hereby excluded to the fullest extent permitted by law. Where however goods are supplied to the specifications of the Buyer these goods are guaranteed by Paint and Décor Ltd to be manufactured in accordance with those specifications.

ORDERS BY TELEPHONE:

Telephone orders are accepted by Paint and Décor Ltd at the risk of the Buyer as deliveries made before written confirmation is received are made for the benefit and as a service to the Buyer. Confirming orders shall be marked "Confirmation of Telephone Order" and orders not so marked may be treated as an original open order and duplicated. Paint and Décor Ltd will not be responsible for expenses and inconvenience incurred thereby.

CANCELLATION OF ORDERS:

Once a contract has been made the Buyer shall not be entitled to cancel the same in respect of the goods or any part thereof. Nevertheless upon receipt by Paint and Décor Ltd of a written request for cancellation and written agreement of the Buyer to accept a cancellation charge to meet costs incurred by Paint and Décor Ltd in relation to the contract prior to cancellation, Paint and Décor Ltd may in its discretion agree to the cancellation of the contract in whole or part.

PROPERTY:

Ownership of and title to the goods shall remain with Paint and Décor Ltd until the purchase price and all other monies owing by the Buyer to Paint and Décor Ltd in respect of the goods have been paid in full to Paint and Décor Ltd.

While the ownership of and title to the goods remain with Paint and Décor Ltd, the goods must be stored separately and marked so as to be identifiable as being the property of Paint and Décor Ltd. Paint and Décor Ltd shall have the right to enter the premises of the Buyer, or where so ever the goods are stored to recover the goods.

TECHNICAL ADVICE:

Technical advice given verbally or in writing is based on knowledge or tests believed to be reliable and is offered as a helpful suggestion only. It is hereby expressly stated and understood however, that where all such technical advice is given, Paint and Décor Ltd assume no obligation or liability as to advice given or the results obtained.

HEALTH AND SAFETY:

It is the Buyer's responsibility to ensure that all applicable health and safety regulations are observed and appropriate steps taken in relation to the storage, handling and use of the goods, and, where information is supplied to the Buyer on potential hazards relating to the goods, to bring such information to the attention of its employees, agents, subcontractors, visitors and customers. Without prejudice to the foregoing, it is also the Buyer's responsibility to provide safe facilities for the reception of the goods into storage.

EXPORT PROHIBITION:

The goods are sold for use in New Zealand only and must not be exported elsewhere, directly or indirectly, without the prior written agreement of Paint and Décor Ltd.

CONSUMER GUARANTEES ACT 1993

The Buyer hereby acknowledges that he is buying the goods for the purposes of a business and any and all warranties and guarantees contained in the Consumer Guarantees Act 1993 or any other legislation are hereby waived and/or negated to the fullest extent permitted and in any event will not apply.

COSTS:

If the buyer defaults in performing its obligations under this agreement and Paint and Décor Ltd incurs expenses in enforcing its rights under this agreement, the Buyer shall pay those expenses (including full legal costs) to Paint and Décor Ltd on demand.

ARBITRATION:

Any disagreement between Paint and Décor Ltd and the Buyer touching the construction or interpretation of these terms will be submitted to arbitration in accordance with the laws of New Zealand.

JURISDICTION:

The construction, validity and performance of the contract shall be governed by New Zealand law.

PAINT AND DECOR LIMITED

- 1.1 The buyer acknowledges that:
- (a) Personal information collected or held by Paint and Decor Ltd. (whether contained in this document or otherwise obtained) is provided and may be held, used and disclosed for the following purposes:-
 - (i) Administering, whether directly or indirectly, Paint and Decor Ltd's contracts or enforcing Paint and Decor Ltd. rights thereunder.
 - (ii) Marketing goods and services provided by Paint and Decor Ltd.
 - (iii) Ascertaining at any time the buyer's credit worthiness and obtaining at any time credit reports, character reference or credit statements.
 - (iv) Enabling Paint and Decor Ltd to notify any credit agency or any other person or body of any application for credit or default on any obligation of the buyer to Paint and Decor Ltd and enabling Paint and Decor Ltd to provide such personal information to any credit agency so such credit agency can maintain effective records;
 - (v) Enabling the buyer to communicate with Paint and Decor Ltd for any purpose.
 - (b) Such personal information is collected by and will be held by Paint and Decor Ltd whose address is 14 Arwen Place, East Tamaki, PO Box 58-152, Greenmount, Auckland, New Zealand.
- 1.2 The Buyer has the right under the Privacy Act, 1993 to obtain access to and to request correction of any personal information concerning it held by Paint and Decor Ltd.
- 1.3 The Buyer authorises Paint and Decor Ltd. to obtain at any time from any person or entity, any information Paint and Decor Ltd. may require to process and/or accept any application for credit the Buyer may make to Paint and Decor Ltd. or to perform or complete any of the other purposes for which the buyer has the right to personal information to Paint and Decor Ltd. The Buyer authorises any such person to release to Paint and Decor Ltd. any personal information that person holds concerning the buyer.
- 1.4 For the purposes of the preceding clauses and terms "Paint and Decor Ltd." includes any financier or discounter of Paint and Decor Ltd. contract or any related company of Paint and Decor Ltd.
- 1.5 If the buyer fails to provide the information requested by Paint and Decor Ltd. in respect of any application for credit the buyer may make, Paint and Decor Ltd. may be unable to process such application.

Acknowledgment of Receipt of this Form
Signed:
Dated:

OFFICE USE ONLY

Comments

Application : **Accepted | Declined**

Signed :

Date :

TO: PAINT AND DECOR LIMITED

I/WE _____
(full Christian and Surnames of Guarantors)

OF _____

IN CONSIDERATION of your agreeing to supply paint and/or other goods or services at my/our request to

(full names of customer where Limited Liability Company)

(hereinafter called "The Customer") I/We DO HEREBY JOINTLY AND SEVERALLY guarantee to you the due and punctual payment to you of all monies which are now or may hereafter become due to you by the Customer, and I/we DO HEREBY DECLARE AND COVENANT that although as between the Customer and me/us, I/We may be a surety only yet as between Paint and Decor Ltd and me/us, I/we shall be deemed to be a principal debtor and liable to you, and that I/we shall not be released by any act, matter or thing, the happening of which would release one liable only as a surety.

DATED this _____ day of _____ 20 _____

SIGNED by the Guarantors _____

IN THE PRESENCE OF: _____

of _____