

CUSTOMER CREDIT APPLICATION FORM

CUSTOMER

Limited Liability Company Trade Private
Partnership Sole Trader Other

Legal Name:

Company Number if a company:

Postal Address: Post Code:

Contact Person: Main Contact: Accounts Contact:

Email: Email:

Phone: Phone:

Name and Address of Directors / Partners / Proprietors / Shareholders

NB - attached a copy of each person's Driver's Licence or Passport if a sole trader, partnership or trust

Name: Designation: Residential Address and Telephone number: Date of Birth:

Estimated monthly spend:

CREDIT REFERENCES: Names, address and telephone numbers (minimum of 2 regular established accounts)

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DECLARATION AND AGREEMENT:

In consideration of us agreeing to supply Goods to the Customer named above, you (or in the case of a Customer that is not a private individual, on behalf of the Customer, you):

- Agree to the Terms of Trade set out on the attached pages; and
- Declare that the information supplied in this form is correct.

Full Name: Signed:

Designation: Date:

GUARANTEE:

In consideration of Plumbing Plus Waikato Limited agreeing to supply Goods to the Customer at my/our request:

I/We unconditionally and irrevocably guarantee to Plumbing Plus Waikato Limited the due and punctual payment by the Customer of all moneys payable in accordance with the Term of Trade set out on the attached pages as an when the same become due and payable by the Customer. The terms of my/our guarantee are set out in the Terms of Trade attached to this form.

Name: Signed: Designation:

Witness Name: Witness Signed: Date:

Name: Signed: Designation:

Witness Name: Witness Signed: Date:

For Supplier Use Only:

Credit Limit \$ Customer Code: Staff :

Authorised by: Approved by: Cat:



PLUMBING PLUS WAIKATO LIMITED TERMS OF TRADE

In these terms of trade we have used “we”, “us” and “our” to refer to Plumbing Plus Waikato Limited and “you” to refer to our Customer. By agreeing to acquire goods from us you agree to these Terms to the exclusion of your own terms of trade (if any).

1. DELIVERY

- 1.1 Unless we agree otherwise, Goods must be collected from our premises.
- 1.2 We may charge you storage and transportation expenses if you fail or refuse to take or accept delivery or indicate to us that you will fail to do so.
- 1.3 We reserve the right to Deliver Goods by instalments.

2. TITLE AND RISK

- 2.1 We shall retain title to Goods we supply until they have been paid for in full and you have performed all your other obligations under these Terms.
- 2.2 Risk in all Goods passes to you when the Goods are Delivered. You shall insure Goods for their full price, and shall not sell, dispose or part with possession of them or do anything else inconsistent with our ownership of the Goods, from Delivery until title in them passes to you.
- 2.3 You shall bear the risk of any damage to the Goods during installation carried out at your premises (except to the extent the damage has been caused by or contributed to by our negligence).

3. PRICE

- 3.1 All prices are plus GST and other taxes and duties, which shall be paid by you.
- 3.2 Our prices are subject to change without notice.
- 3.3 Unless we agree otherwise in writing, the amount you will be charged will be the price as at the date of Delivery.
- 3.4 If we provide a quotation to you, it is based on information available to us at that time and we may charge you more than the amount quoted if our costs (eg the cost of labour, materials, transport, tax, exchange rates or other costs) or the specifications change. Unless otherwise agreed in writing, prices are quoted exclusive of GST.

4. PAYMENT

- 4.1 You must pay for Goods on their Delivery, unless we decide otherwise.
- 4.2 We may require you to pay a deposit, being an advanced payment for Goods supplied before those Goods are Delivered.
- 4.3 We are under no obligation to supply Goods to you on credit. If we grant you credit, you agree to pay our invoices by the 20th of the month following the date of the invoice.
- 4.4 You agree to give any further securities as we may from time to time require. In the form required by us, and to comply with all of your obligations under those securities.
- 4.5 We may notify you at any time that we are going to stop supplying Goods to you on credit. This shall be without prejudice to your obligation to pay amounts owing.
- 4.6 All payments shall be made without set-off or deduction. Receipt of a cheque, bill of exchange, or other negotiable instrument will not constitute payment and you remain liable for payment until payment is received by us.
- 4.7 Payments may not be made by credit card without prior arrangement. If payments are made by credit card, we may charge an administration fee of 3%.
- 4.8 We may apportion payments to outstanding accounts as we see fit.

5. DEFAULT

- 5.1 You will be in Default if:
 - a. you fail to pay an amount due under these Terms by the due date for payment; or
 - b. you commit a breach of any of your other obligations under these Terms, the Security or the terms of any other contract you have entered into, or enter into in the future, with us or one of our related entities; or

- c. you become insolvent, are wound up, have a receiver appointed, enter into any composition or arrangement with your creditors, do any act which would render you liable to be placed into liquidation or have receiver appointed over your property, commit an act of bankruptcy, cease to be of full legal capacity, or die;
- d. Goods that we have retained title to are at risk; or
- e. an event or a series of events (whether related or not) occurs which, in our opinion, may cause a material adverse change in your ability to meet your obligations to us.

- 5.2 If you are in Default then we may, at our option, do any one or more of the following:
 - a. charge you default interest at 10% per annum on any late payments calculated on a daily basis from the due date until the date payment is received;
 - b. require you to remedy the default in the manner and within the period that we tell you;
 - c. require you to pay to us all amounts you owe us immediately;
 - d. suspend or terminate your account with us;
 - e. enforce security interests created by these Terms.
 - f. exercise any rights that we have under these Terms or that are available to us at law.
- 5.3 We may suspend or terminate your account with us at any time in our sole discretion. If your account is terminated, you must immediately pay us any amount you owe us. Termination will not affect any of our rights that have arisen before termination.

6. LOYALTY AND REWARD PROGRAMMES

- 6.1 We may, at our discretion, from time to time participate in certain loyalty or reward programmes in respect of which you may receive points, credits or other rewards of incentives for purchasing goods from us.
- 6.2 We have no liability to you in respect of any such loyalty or reward programme and in particular we are not liable in respect of the failure or any loyalty or reward programme or in the event that the organiser of the loyalty or reward programme is unable to provide the benefits which were represented to you or which you anticipated when purchasing Goods from us.

7. PERSONAL PROPERTY SECURITIES ACT 1999 (“PPSA”)/ AGREEMENT TO MORTGAGE

- 7.1 Plumbing Plus Waikato Limited is defined as the “secured party” for the purposes of the PPSA. The Customer is defined as a “debtor” for the purposes of a PPSA.
- 7.2 The Goods shall be further defined (if applicable) as “collateral” for the purposes of the PPSA.
- 7.3 You grant a Security Interest in the Goods, the proceeds of the Goods, and all present and after acquired property arising out of or as a result of the Goods, in favour of Plumbing Plus Waikato Limited as security for the payment of all moneys payable or to become payable by you to Plumbing Plus Waikato Limited and the performance of all your obligations under these Terms of Trade.
- 7.4 You will, at any time requested by Plumbing Plus Waikato Limited, promptly execute any documents, provide any necessary information, and do anything else required by Plumbing Plus Waikato Limited to ensure the Security Interest constitutes a first ranking Perfected Security Interest (as that term is defined in the PPSA). You shall provide all such information that Plumbing Plus Waikato Limited requires to complete a Financing Statement or Financing Change Statement (as those terms are defined in the PPSA).

Initials:



- 7.5 You must not grant to any other person a Security Interest, nor consent to any other person creating a Security Interest or registering a Financing Statement, in respect of the Goods, the proceeds of the Goods, and all present and after acquired property arising out of or as a result of the Goods, or your other personal property, without the prior written consent of Plumbing Plus Waikato Limited.
- 7.6 All costs of and incidental to the registration, amendment or discharge of the Security Interest, Financing Statement or Financing Change Statement must be paid by you.
- 7.7 You must promptly notify Plumbing Plus Waikato Limited of any changes of your details.
- 7.8 You:
- acknowledge that where Plumbing Plus Waikato Limited 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;
 - waive any rights you may have under sections 114 (1)(a), 116, 120(2), 121, 125, 126, 127, 129, 131, 133, 134 and 148 of the PPSA and any other sections that you are able to waive your rights pursuant to;
 - waive your right to receive a copy of the Verification Statement or a Financing Change Statement relating to any Security Interest created by these Terms of Trade.
- 7.9 If the Goods that Plumbing Plus Waikato Limited has a Security Interest in are processed, included or dealt with in any way causing them to become accessions, processed or comingled goods, Plumbing Plus Waikato Limited's Security Interest will continue in the accessions, processed or comingled goods in which they are included. You shall not grant any other Security Interest or any lien in the accessions, processed or comingled goods.
- 7.10 Until all moneys owed by you to Plumbing Plus Waikato Limited under all of your Plumbing Plus Waikato Limited account have been paid your Plumbing Plus Waikato Limited account closed and all your obligations under these Terms satisfied in full, you irrevocably grant Plumbing Plus Waikato Limited and its agents the right to enter into your property, any property occupied by you or any other property where the Goods are stored and to take possession of the Goods. Plumbing Plus Waikato Limited shall not be responsible for any damage caused in the process of taking the Goods and you will indemnify Plumbing Plus Waikato Limited against liability to any other party should Plumbing Plus Waikato Limited take the Goods.
- 7.11 You irrevocably appoint Plumbing Plus Waikato Limited and each of its directors (jointly and severally) to be your attorney to sign in your name and on your behalf any security which Plumbing Plus Waikato Limited shall request you to execute pursuant to this clause.
- 7.12 Words in this clause shall, if the context permits, have the meanings given to them by virtue of the PPSA.
- 7.13 In addition to the security set out in this clause:
- you agree to mortgage all properties in which you have an interest (whether now or at any time in the future) to Plumbing Plus Waikato Limited. The mortgage will be on terms contained in the latest Auckland District Law Society all obligations mortgage form.
 - Plumbing Plus Waikato Limited may, at any time until the mortgage is registered against the properties, caveat all or any of the properties to protect Plumbing Plus Waikato Limited's interest in the properties pursuant to this clause.
 - you irrevocably appoint Plumbing Plus Waikato Limited and each of its directors (jointly and severally) to be your attorney to sign in your name and on your behalf any document required to effect registration of the mortgage against the title to all or any of the properties.

8. WARRANTIES

- 8.1 The Consumer Guarantees Act 1993, the Fair Trading Act 1986, and other statutes may impose warranties, conditions or obligations upon us which cannot by law (or which can only to a limited extent by law) be excluded. Other than as expressly provided for in these Terms, we exclude all such imposed warranties, conditions or obligations to the extent permitted by law and exclude any warranty, condition or obligation imposed or implied under common law, equity or otherwise.
- 8.2 The guarantees contained in the Consumer Guarantees Act 1993 are excluded where you acquire goods and services from us for the purposes of a business in terms of sections 2 and 43 of that Act.

9. LIMITATION OF LIABILITY

- 9.1 Except as expressly otherwise provided by clauses 8.1 or 8.2, we shall not be liable for any loss or damage or liability of any kind whatsoever (including consequential loss or lost profit or business) whether suffered or incurred by you or another person and whether in contract, or tort, or otherwise and whether such loss or damage arises directly or indirectly from Goods or services provided by us to you.
- 9.2 To the extent that we are liable for any reason for any loss suffered or liability incurred by you arising from any breach of these Terms or for any other reason, such liability if limited to the amount of the price of the Goods concerned. If Goods are returned by you, or if you make a claim in writing to us in relation to Goods or associated services provided, we may, in our discretion, repair or replace the Goods or re-perform the services or refund the price of those Goods to you, provided that:
- the Goods must be returned or the claim must be made in writing to us within fourteen (14) days of Delivery; and
 - you must supply the date and number of any invoice relating to the Goods; and
 - we must be given a reasonable opportunity to inspect the Goods.
- 9.3 If Goods are returned by you, you must pay:
- a restocking fee; and
 - a repackaging charge if Goods are returned in packaging that is not deemed suitable for resale.

10. INTELLECTUAL PROPERTY

- 10.1 In respect of Intellectual Property used in or arising from the production of the Goods or the performance of any associated services:
- all pre-existing Intellectual Property the subject of an Intellectual Property right resides with the owner as at the date of these Terms (whether you or us);
 - any new Intellectual Property will be dealt with in accordance with clause 11.
- 10.2 If any Goods are to be supplied to your design, you warrant that the manufacture and supply of such Goods by us will not infringe any third party's Intellectual Property rights and you indemnify us against any loss, liability, costs and expenses in the event of any claim being made that the manufacture or supply of such Goods by us infringes any patent, copyright or other rights of any other person.

11. INTELLECTUAL PROPERTY OWNERSHIP

- 11.1 Subject to clauses 10.1a and 11.4 we are and will remain the exclusive owner everywhere in the world of all Intellectual Property rights and interest in the Goods, and any other work performed by us for you, as first owner of those Intellectual Property rights and interests.
- 11.2 We shall retain exclusive worldwide ownership at all times of our artistic styles, methods of working, techniques, ideas, skills and know-how.
- 11.3 You must not attribute the Goods to anyone other than us or remove any of our trade marks, signatures, logos or similar from the Goods.
- 11.4 Upon payment of all amounts owing to us in accordance with these Terms, we assign to you the copyright in the final form of any Goods which we have specifically created for you for the countries and for the purposes as specified in the description of the work to be performed, or if not specified, for the countries and for the purposes which would be reasonably expected in light of the nature of your request for the Goods.
- 11.5 This clause 11 shall continue in force as between us and you notwithstanding the termination of these Terms or Delivery of the Goods.

12. PRIVACY OF INFORMATION

- 12.1 You authorise us:
- to collect, retain and use information about you from any person for the purpose of assessing your creditworthiness and to market to you and/or the Guarantor the business activities and products of Plumbing Plus Waikato Limited;
 - to disclose information about you:
 - to any person who guarantees, or who provides insurance, or who provides any other credit support, in relation to your obligations to us;
 - to such personas as may be necessary or desire able to enable us to exercise any power or enforce or attempt to enforce any of our rights, remedies and powers under the Terms.

Initials:



13. NOTICES

13.1 Any notice may be given by phone, in person, posted, or sent by facsimile or email to you or where you are a company, to any of your directors.

14. CONFIDENTIALITY

14.1 You shall at all times treat as confidential all non-public information and material received from us and shall not publish, release, or disclose the same without our prior written consent. For clarity, confidential information includes any new Intellectual Property and prices.

15. COSTS

15.1 You must pay our costs (including legal costs, as between solicitor and client) of an incidental to the enforcement or attempted enforcement of our rights, remedies and powers under these Terms.

16. CREDIT INFORMATION

16.1 You consent to us, or any financier or credit-rating agency, making enquiries of obtaining any information about your financial standing and credit worthiness.

17. JURIDICION

17.1 These Terms are governed by the laws of New Zealand. You may take legal action against us only in a New Zealand Court.

18. DISPUTES

18.1 Any claim or dispute arising under these Terms shall be determined by arbitration under the Arbitration Act 1996 if the parties are unable to resolve such dispute themselves within one (1) month of the dispute arising. However, nothing in this clause prevents either party from taking immediate steps to seek any equitable relief before the New Zealand Courts.

19. FORCE MAJEURE

19.1 If we have given you a time for Delivery of the Goods (or any part of them), such time is approximate only and is not deemed to be of the essence.
19.2 We shall not be liable for delay or failure to perform our obligations under these Terms if the cause of delay or failure is beyond our reasonable control.

20. GENERAL

20.1 These Terms replace any earlier representations, warranties, understands and agreements (whether oral or written), and together with your Credit Application constitute the entire agreement between us and you relating to their subject matter.
20.2 You shall not transfer or assign your rights, powers or obligations under these Terms without our prior written consent
20.3 If you have entered into these Terms as the trustee of a trust and you have no right to or interest in any of the assets of the trust except in your capability as trustee of the trust your liability shall be limited to the value of the assets of the trust which now or in the future are (or, but for your wilful neglect or default, would be) in the hands of the trustees for the time being of the trust. This clause does not limit any liability you have to use as a personal guarantor.
20.4 No failure or delay by us in insisting upon the strict performance of these Terms or exercising any right under these Terms will operate as a waiver of those matters.
20.5 We may change these Terms at any time. Any change applies from when it is published on our website or notified to you in writing.

21. GUARANTEE

21.1 The guarantor(s) named on the attached customer Application Form ("the Guarantor") unconditionally and irrevocably guarantees to Plumbing Plus Waikato Limited the due and punctual payment by the Customer of all moneys payable in accordance with these Terms of Trade as and when the same become due and payable by the Customer.
21.2 The Guarantor agrees to be deemed as principal debtor for all accounts held by the Customer with Plumbing Plus Waikato Limited.
21.3 The Guarantor agrees that this guarantee shall be a continuing guarantee and shall not be discharged by any settlement or payment of an account and that, if more than one guarantor is named on the attached Customer Application Form, this guarantee is both joint and several.
21.4 The Guarantor agrees that its liability under this guarantee shall not be discharged, abrogated, prejudiced or affected by:

- a. the granting of time, credit or the indulgence or other concession to the Customer;
- b. any alteration, modification, variation or addition to any agreement in respect of the supply of goods and services; or
- c. any other act, omission or event which but for this provision might operate to discharge, impair or otherwise affect, my/our obligations under this guarantee or any powers or remedies conferred upon Plumbing Plus Waikato Limited by this guarantee or by law.

21.5 The Guarantor grants to Plumbing Plus Waikato Limited a general Security Interest in all of its present and after acquired property on the latest Auckland District Law Society General Security Agreement terms as at the date of these Terms of Trade. The provisions of clause 7 will apply to the general Security Interest granted by it including for clarity any acknowledgements by the Customer which are binding upon the Guarantor as if it were the Customer.

21.6 Plumbing Plus Waikato Limited may from time to time require the Guarantor to provide additional security for the Customer's account. The provisions of clause 7 will apply to such additional security in all respects including for clarity an acknowledgements by the Customer which are binding upon the Guarantor as if it were the Customer.

21.7 In addition to the security set out in this clause:

- a. The Guarantor agrees to mortgage all properties in which they have an interest (whether now or at any time in the future) to Plumbing Plus Waikato Limited. The mortgage will be on terms contained in the latest Auckland District Law Society all obligations mortgage form.
- b. Plumbing Plus Waikato Limited may, at any time until the mortgage is registered against the properties, caveat all or any of the properties to protect Plumbing Plus Waikato Limited's interest in the properties pursuant to this clause.
- c. The Guarantor irrevocably appoints Plumbing Plus Waikato Limited and each of its directors (jointly and severally) to be its attorney to sign in its name and on its behalf any document required to effect registration of the mortgage against the title to all or any of the properties.

21.8 The Guarantor confirms that it has been advised by Plumbing Plus Waikato Limited that it should seek legal advice before signing this guarantee.

21.9 Words in this clause shall, if the context permits, have the meanings given to them by virtue of the PPSA.

22. DEFINITIONS

22.1 In these Terms unless the context otherwise requires:

"Delivery" means the collection of Goods by you or one of your employees, contractors or agents from our premises, unless we have agreed to dispatch Goods for you, in which case delivery shall mean the despatch of the Goods from our premises. If you indicate to us that you will fail or refuse to take or accept delivery, then the Goods are deemed to have been delivered when we are willing to deliver them.

"Default" has the meaning set out in clause 5.

"Goods" shall include all goods and any associated services that we supply.

"Intellectual Property" means all intellectual property rights including, without limitation, copyright, patent and design rights, drawings, documents, data, ideas, procedures, calculations and all other statutory and common law rights and interests.

"Security" means all existing and future security held by us that secures your obligations under these Terms.

22.2 The rule of construction known as the contra proferentem rule does not apply to these Terms.

22.3 Words importing the singular include the plural and vice versa.

22.4 Headings are for convenience only and do not form part of, or affect the interpretation of, these Terms.

22.5 References to a party include that party's successors, personal representatives, executors, administrators and permitted assigns.

22.6 Reference to a statute include references to:

- a. regulations, orders, rules or notices made pursuant to that statute;
- b. all amendments to that statute and those regulations, orders, rules or notices, whether by subsequent statute or otherwise; and
- c. any statute passed in substitution of that statute.

Initials:

