



Manufacturers of Industrial & Decorative Coatings

United Paints
PO Box 21-064
29 Empire Rd
Bridgend
Christchurch
Telephone (03) 323-8743
Fax (03) 323-7261

ACCOUNT APPLICATION FORM

ENTITY DETAILS:

APPLICANT'S FULL LEGAL NAME (i.e. not trading name): ("the Customer")

(Please tick) Sole Trader [] Individual [] Partnership [] Limited Company [] Other (please state):

Trading as: Postal Address:

Physical Address: Email:

Nature of Business: Years in Business:

Telephone: Fax: Mobile:

Contact Name & Position:

OWNERSHIP please insert Owner(s) / Directors Name(s) in full

1:..... Address:

2:..... Address:

IF LIMITED LIABILITY COMPANY - Address of Registered Office:

Date of Incorporation: Incorporation No:

IF SOLE TRADER OR INDIVIDUAL -Attach copy of approved form of identification ie; Drivers Licence

FINANCIAL & PROFESSIONAL ADVISORS

Shareholders Funds: Paid Up:

Name of Accountant: Solicitor:

Bank: Branch: Acct No:

Table with 4 columns: Company, Contact Name, Phone Number, Account open since. Title: TRADE REFERENCES

General Description of Goods/Products/Services to be Provided:

I/We have read and agree to be bound by the terms and conditions of trade as printed overleaf or attached. I/We warrant to United Paints Ltd that the above information is to the best of my/our knowledge, information and belief true and correct and that I/we am/are duly authorised to enter into this application and future contracts on behalf of the Customer. I/We also acknowledge that pursuant to the personal guarantee contained in the terms and conditions of trade that, where relevant, I/we am/are also signing this application form in my/our personal capacity.If the applicant is a company then this application form

Must Be Signed By a Director or authorised signatory of the company.

Signed Print Name Designation

Dated this day of 20.....

CHRISTCHURCH (03) 323 8743 AUCKLAND (09) 265 0032 PALMERSTON NORTH (021) 682 151

TERMS & CONDITIONS OF TRADE

1. DEFINITIONS

- 1.1 "United Paints" shall mean United Paints Limited, or any agents or employees thereof.
- 1.2 "Customer" shall mean the Customer, any person acting on behalf of and with the authority of the Customer, or any person purchasing products and services from United Paints.
- 1.3 "Products" shall mean:
 - 1.3.1 All Products of the general description specified on the front of this agreement and supplied by United Paints to the Customer; and
 - 1.3.2 All Products supplied by United Paints to the Customer; and
 - 1.3.3 All inventory of the Customer that is supplied by United Paints; and
 - 1.3.4 All Products supplied by United Paints and further identified in any invoice issued by United Paints to the Customer, which invoices are deemed to be incorporated into and form part of this agreement; and
 - 1.3.5 All Products that are marked as having been supplied by United Paints or that are stored by the Customer in a manner that enables them to be identified as having been supplied by United Paints; and
 - 1.3.6 All of the Customer's present and after-acquired Products that United Paints has performed work on or to or in which goods or materials supplied or financed by United Paints have been attached or incorporated.
 - 1.3.7 The above descriptions may overlap but each is independent of and does not limit the others.
- 1.4 "Products" shall also mean all products, goods, services and advice provided by United Paints to the Customer and shall include without limitation the importing, exporting, distribution and supply of Surface Coatings, painting equipment, all technical advice and products and all charges for labour, hire charges, insurance charges, or any fee or charge associated with the supply of Products by United Paints to the Customer.
- 1.5 "Price" shall mean the cost of the Products as agreed between United Paints and the Customer and includes all disbursements eg charges United Paints pay to others on the Customer's behalf subject to clause 4 of this contract.

2. ACCEPTANCE

- 2.1 Any instructions received by United Paints from the Customer for the supply of Products shall constitute a binding contract and acceptance of the terms and conditions contained herein.

3. COLLECTION AND USE OF INFORMATION

- 3.1 The Customer authorises United Paints to collect, retain and use any information about the Customer, for the purpose of assessing the Customer's credit worthiness, enforcing any rights under this contract, or marketing any Products provided by United Paints to any other party.
- 3.2 The Customer authorises United Paints to disclose any information obtained to any person for the purposes set out in clause 3.1.
- 3.3 Where the Customer is a natural person the authorities under clauses 3.1 and 3.2 are authorities or consents for the purposes of the Privacy Act 1993.

4. PRICE

- 4.1 All prices, unless otherwise stated, are exclusive of sales tax, goods & service tax, or any other taxes, which if payable are to the buyers account and are payable on the date which the price is payable.
- 4.2 Price indications on Price Lists are subject to alteration in accordance with clause 4.4
- 4.3 Where no price is stated in writing or agreed to orally the Products shall be deemed to be sold at the current amount as such Products are sold by United Paints at the time of the contract.
- 4.4 The price may be increased by the amount of any reasonable increase in the cost of supply of the Products that is beyond the control of United Paints between the date of the contract and delivery of the Products.

5. PAYMENT

- 5.1 Payment for Products shall be made in full on or before the 20th day of the month following the date of the invoice ("the due date").
- 5.2 Interest may be charged on any amount owing after the due date at the rate of 2.5% per month or part month.
- 5.3 Any expenses, disbursements and legal costs incurred by United Paints in the enforcement of any rights contained in this contract shall be paid by the Customer, including any reasonable solicitor's fees or debt collection agency fees.
- 5.4 Receipt of a cheque, bill of exchange, or other negotiable instrument shall not constitute payment until such negotiable instrument is paid in full.
- 5.5 A deposit may be required.

6. QUOTATION

- 6.1 Where a quotation is given by United Paints for Products:
 - 6.1.1 Unless otherwise agreed the quotation shall be valid for thirty (30) days from the date of issue; and
 - 6.1.2 The quotation shall be exclusive of goods and services tax unless specifically stated to the contrary;
 - 6.1.3 United Paints reserve the right to alter the quotation because of circumstances beyond its control.
 - 6.1.4 The quote must be signed by the Managing Director.
- 6.2 Where Products are required in addition to the quotation the Customer agrees to pay for the additional cost of such Products.

7. RISK

- 7.1 The Products remain at United Paints' risk until delivery to the Customer.
- 7.2 Delivery of Products shall be deemed complete when United Paints gives possession of the Products directly to the Customer or possession of the Products is given to a carrier, courier, or other bailee for purposes of transmission to the Customer.

8. DELIVERY

- 8.1 United Paints shall not be responsible or liable in any way to the Customer for any default or delays in the delivery of the order or any part of it nor for any direct or consequential loss or damage arising from such delays or default and no such delay shall relieve the Customer from any obligation to pay for any goods already delivered, or, to accept delivery of any goods ordered. No order may be withdrawn or altered without the written consent of the seller.
- 8.2 United Paints reserves the right to deliver the good by instalments and each instalment shall be deemed to be a separate contract under the same provisions as the main contract.
- 8.3 Without prejudice to any other rights and remedies, which it may have, United Paints may charge storage and transportation expenses if the buyer fails, or refuses, to take or accept delivery or indicates to United Paints that the buyer will refuse to accept or take delivery at the time specified in the contract or at any other times as United Paints is able to deliver the goods.
- 8.4 Where, in United Paints opinion, any dispute arises between United Paints and the Customer as to the performance by either the Customer or United Paints of any term, warranty, or condition of any contract, United Paints shall have the right to suspend supply until, in the opinion of United Paints, the dispute shall have been settled.
- 8.5 The Customer shall ensure safe and adequate access to any site for delivery of the goods, and United Paints may refuse to deliver to any site if it is of the opinion that delivery would be unsuitable or unsafe. The Customer shall indemnify United Paints for all cost, liabilities, or damages which may arise out of delivery to any site to which adequate access cannot be obtained.
- 8.6 The Customer, in all cases, will accept full responsibility for the receipt and return of containers when containers are supplied to their site or specified destination. Any demurrage or detention charges incurred will be payable, in full, by the Customer to United Paints.
- 8.7 If a buyer, when taking delivery, signs a clean receipt for the goods which are later found to have been damaged in transit, such signature thereby prejudicing any claim United Paints might have made on a third party, United Paints shall be free from all liability for any loss or damage resulting from the damage to the goods.

9. TITLE AND SECURITY (PERSONAL PROPERTY SECURITIES ACT 1999)

- 9.1 Title in any Products supplied by United Paints passes to the Customer only when the Customer has made payment in full for all Products provided by United Paints and of all other sums due to United Paints by the Customer on any account whatsoever. Until all sums due to United Paints by the Customer have been paid in full, United Paints has a security interest in all Products.
- 9.2 If the Products are attached, fixed, or incorporated into any property of the Customer, by way of any manufacturing or assembly process by the Customer or any third party, title in the Products shall remain with United Paints until the Customer has made payment for all Products, and where those Products are mixed with other property so as to be part of or a constituent of any new Products, title to these new Products shall be deemed to be assigned to United Paints as security for the full satisfaction by the Customer of the full amount owing between United Paints and Customer.
- 9.3 The Customer gives irrevocable authority to United Paints to enter any premises occupied by the Customer or on which Products are situated at any reasonable time after default by the Customer or before default if United Paints believes a default is likely and to remove and repossess any Products and any other property to which Products are attached or in which Products are incorporated. United Paints shall not be liable for any costs, damages, expenses or losses incurred by the Customer or any third party as a result of this action, nor liable in contract or in tort or otherwise in any way whatsoever unless by statute such liability cannot be excluded. United Paints may either resell any repossessed Products and credit the Customer's account with the net proceeds of sale (after deduction of all repossession, storage, selling and other costs) or may retain any repossessed Products and credit the Customer's account with the invoice value thereof less such sum as United Paints reasonably determines on account of wear and tear, depreciation, obsolescence, loss or profit and costs.
- 9.4 Where Products are retained by United Paints pursuant to clause 9.3 the Customer waives the right to receive notice under s.120 of the Personal Property Securities Act 1999 ("PPSA") and to object under s.121 of the PPSA.
- 9.5 The following shall constitute defaults by the Customer:
 - 9.5.1 Non payment of any sum by the due date.
 - 9.5.2 The Customer intimates that it will not pay any sum by the due date.
 - 9.5.3 Any Products are seized by any other creditor of the Customer or any other creditor intimates that it intends to seize Products.
 - 9.5.4 Any Products in the possession of the Customer are materially damaged while any sum due from the Customer to United Paints remains unpaid.
 - 9.5.5 The Customer is bankrupted or put into liquidation or a receiver is appointed to any of the Customer's assets or a landlord distains against any of the Customer's assets.
 - 9.5.6 A Court judgment is entered against the Customer and remains unsatisfied for seven (7) days.
 - 9.5.7 Any material adverse change in the financial position of the Customer.
- 9.6 If the Credit Repossession Act applies to any transaction between the Customer and United Paints, the Customer has the rights provided in that Act despite anything contained in these terms and conditions of trade.

10. DISPUTES

- 10.1 No claim relating to Products will be considered unless made within seven (7) days of delivery.
- 10.2 Products are only accepted for return at the sole discretion of United Paints. A 15% restocking fee shall apply to any Products accepted for return.

11. LIABILITY

- 11.1 The Consumer Guarantees Act 1993, the Fair Trading Act 1986 and other statutes may imply warranties or conditions or impose obligations upon United Paints which cannot by law (or which can only to a limited extent by law) be excluded or modified. In respect of any such implied warranties, conditions or terms imposed on United Paints, United Paints' liability shall, where it is allowed, be excluded or if not able to be excluded only apply to the minimum extent required by the relevant statute.
- 11.2 Except as otherwise provided by clause 11.1 United Paints shall not be liable for:
 - 11.2.1 Any loss or damage of any kind whatsoever, arising from the supply of Products by United Paints to the Customer, including consequential loss whether suffered or incurred by the Customer or another person and whether in contract or tort (including negligence) or otherwise and irrespective of whether such loss or damage arises directly or indirectly from Products provided by United Paints to the Customer; and
 - 11.2.2 If, contrary to United Paints' disclaimer of liability contained herein, any liability of United Paints is deemed to arise, then such liability is limited to and shall not in aggregate exceed the contract price.
 - 11.2.3 The Customer shall indemnify United Paints against all claims and loss of any kind whatsoever however caused or arising and without limiting the generality of the foregoing of this clause whether caused or arising as a result of the negligence of United Paints or otherwise, brought by any person in connection with any matter, act, omission, or error by United Paints its agents or employees in connection with the Products.

12. ADVICE

- 12.1 The Customer shall ensure that the goods are not used for any purpose for which they are not suitable and shall be responsible for using all necessary skill and care in handling and using the goods. The Customer expressly acknowledges and agrees that any advice furnished by United Paints with respect to the use of the goods is given in good faith but on the basis that United Paints assumes no obligation or liability for advice given or results obtained, all such advice being given by United Paints and accepted by the Customer at the Customer's risk.

13. COPYRIGHT AND INTELLECTUAL PROPERTY

- 13.1 United Paints, owns and has copyright in all designs, products, work, software, systems, solutions, drawings, specifications, electronic data and documents produced by United Paints in connection with the Products provided pursuant to this contract and the client may use the Products only if paid for in full and for the purpose for which they were intended and supplied by United Paints.

14. CONSUMER GUARANTEES ACT

- 14.1 The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the Customer acquires Products from United Paints for the purposes of a business in terms of section 2 and 43 of that Act.

15. PERSONAL GUARANTEE OF COMPANY DIRECTORS OR TRUSTEES

- 15.1 If the Customer is a company or trust, the director(s) or trustee(s) signing this contract, in consideration for United Paints agreeing to supply Products and grant credit to the Customer at their request, also sign this contract in their personal capacity and jointly and severally personally undertake as principal debtors to United Paints the payment of any and all monies now or hereafter owed by the Customer to United Paints and indemnify United Paints against non-payment by the Customer. Any personal liability of a signatory hereto shall not exclude the Customer in any way whatsoever from the liabilities and obligations contained in this contract. The signatories and Customer shall be jointly and severally liable under the terms and conditions of this contract and for payment of all sums due hereunder.

16. MISCELLANEOUS

- 16.1 United Paints shall not be liable for delay or failure to perform its obligations if the cause of the delay or failure is beyond its control.
- 16.2 Failure by United Paints to enforce any of the terms and conditions contained in this contract shall not be deemed to be a waiver of any of the rights or obligations United Paints has under this contract.
- 16.3 If any provision of this contract shall be invalid, void or illegal or unenforceable the validity existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.