

NEW ACCOUNT / CREDIT APPLICATION FORM

REQUEST FOR ACCOUNT WITH: ("the Supplier")



Insert below your full legal name of retailer (if a Trust, insert full name of Trustee/s), and address and ABN.
ONLY FULLY COMPLETED APPLICATIONS WILL BE ACCEPTED.

Personal name of Applicant (hereinafter called "the Applicant"):

Trading name & address:

Postcode:

Office No: (.....) Fax No: (.....) Mobile No: (.....)

No. of years trading under present ownership: Email:

Business Type: (please tick one) Sole Proprietor Partnership Company Trust

Company Name / Trust Name / Business Name (if different from above):

ABN:

Registered Company / Business Name Address (if different from above):

Bank: BSB: Account No:

OWNERS / DIRECTORS / GUARANTORS

Name:

Owner Director (Please tick as applicable)

Private Address:

Postcode:

Home Phone: (.....)

Drivers Lic. No: State:

Name:

Owner Director (Please tick as applicable)

Private Address:

Postcode:

Home Phone: (.....)

Drivers Lic. No: State:

Any special instructions (please advise if delivery, account address, etc. is different from above):

Applicant's current TRADE REFERENCES

Name:

Address:

Phone / Fax:

Name:

Address:

Phone / Fax:

Name:

Address:

Phone / Fax:

IMPORTANT NOTICE: PLEASE READ CAREFULLY BEFORE YOU SIGN

PRIVACY ACT MATTERS and PERSONAL GUARANTEE / INDEMNITY

I, *(insert full name)*

Of *(insert residential address)*

.....
hereby apply on behalf of the Applicant for a Credit Account to be opened with the Supplier and, in consideration of the Supplier agreeing to open such a Credit Account:

1. I warrant that I am a principal of the Applicant and am authorised to make this Application on the Applicant's behalf.
2. I hereby personally guarantee the payment of all monies payable from time to time by the Applicant to the Supplier and also the due and full compliance by the Applicant with the Supplier's Trading Terms. I further indemnify and agree to keep indemnified the Supplier in respect of any loss or expense incurred by the Supplier as a consequence of any failure by the Applicant to comply with the Supplier's Trading Terms. This guarantee and indemnity shall continue regardless of any extension of time or other indulgence that may be granted by the Supplier to the Applicant from time to time.
3. I warrant that the information provided by me in this Application is true and correct.
4. I acknowledge that the Supplier has furnished the Applicant with a copy of this Application and has advised the Applicant :-
 - (a) of the identities of the Supplier and Australian Gift and Homewares Association Limited ("the Association") and how to contact each of them; and
 - (b) that the Supplier and the Association are able to gain access to the information supplied in this Application form; and
 - (c) that if there is any default by the Applicant in making payment to the Supplier, the information collected in this Agreement, together with information as to the amounts claimed by the Supplier to be owing from time to time by the Applicant to the Supplier and legal or other steps taken by the Supplier to recover such amounts, (all of which information and any related information is called "the default information") may be furnished by the Supplier to the Association and the Association may disseminate all or any of the default information to its members and their employees from time to time; and
 - (d) that the Supplier and the Association may therefore disclose all or any of the default information to other members of the Association and their employees; and
 - (e) that if the Applicant cancels its order for the supply of goods with the Supplier, the information collected in this Agreement and the fact of such cancellation (collectively called "the cancellation information") may be reported by the Supplier to the Association and the Association may disseminate all or any of the cancellation information to its members from time to time; and
 - (f) that the Supplier and the Association may therefore disclose the cancellation information to other members of the Association; and
 - (g) that the supply of goods to the Applicant may be refused if any particulars requested by the Supplier are not provided by the Applicant or if these terms are not agreed to by the Applicant.

5. The Applicant consents to the default information and the cancellation information being disclosed to the Supplier and the Association and to other members of the Association and otherwise being used in the manner referred to in paragraph 4.
6. The Applicant acknowledges that the Supplier and the Association have requested the Applicant to let the Supplier and the Association know immediately in writing if at any time the Applicant believes that the default information or cancellation information collected, used or disclosed by the Supplier or the Association is not accurate, complete and up to date. The Applicant acknowledges having been advised by the Supplier and the Association that the Applicant is entitled to access the default information and the cancellation information from time to time and require the Supplier and the Association to take all reasonable steps to ensure that all such information is accurate, complete and up to date.
7. The Applicant indemnifies and will keep indemnified each of the Supplier and the Association against all actions, demands, liabilities, proceedings, judgments or orders, claims, costs and expenses which the Supplier and the Association may suffer, incur or sustain (including any liability which the Supplier and/or the Association may incur to the Applicant) in connection with or arising in any way whatsoever as a consequence of:-
 - (a) the collection use or disclosure of the default information and / or the cancellation information as referred to in paragraph 4; and
 - (b) any such information not being accurate, complete and up to date.
 - (c) any misuse and loss of such information;
 - (d) any unauthorised access to, modification or disclosure of any such information;
 - (e) the failure to provide the Applicant or anyone on its behalf with access to such information and the opportunity to correct any errors; and
 - (f) the identification of any natural person in such information; and
 - (g) any interference with privacy within the meaning of the Privacy Act (C'wth) by the Supplier or the Association; and
 - (h) any breach of the said Act by the Supplier or the Association; and
 - (i) any breach by the Supplier or the Association of the National Privacy Principles set out in Schedule 3 of the said Act.

Signed:

Dated:

As principal for and on behalf of the Applicant

SUPPLIER'S TERMS AND CONDITIONS OF TRADING ("The Supplier's Trading Terms")

1. PAYMENT OF ORDERS/ACCOUNTS

All orders which are endorsed or described as "Pro Forma Orders" are firm, irrevocable and non-cancellable by the Applicant and must be paid for in full within 14 days from date of invoice. Where payment for a Pro Forma Order is not received within 14 days of the date of invoice, the order may be cancelled by and at the sole discretion of the Supplier and in such event the Applicant will be liable from the date of notice of cancellation for a cancellation fee equivalent to 20% of the invoiced cost or \$50.00, whichever is greater.

All other orders made to the Supplier must be paid for within 30 days of the date of the Supplier's Invoice ("the Payment Period") and where payment in full is not received by the Supplier prior to the expiry of the Payment Period then the Applicant shall be liable to pay interest on the amount outstanding as at the expiry of the Payment Period at the rate of 1% per month until payment in full is received by the Supplier. The Supplier is hereby irrevocably authorised to allocate the payment of any monies received from time to time from the Applicant towards any outstanding account incurred with the Supplier by the Applicant. All prices quoted shall be exclusive of Goods and Services Tax ("GST") and GST will be payable on the sale price on payment of the invoice.

2. PROPERTY IN AND DELIVERY OF GOODS

- (a) The Goods supplied by the Supplier to the Applicant shall be at the Applicant's risk immediately on delivery to the Applicant or immediately on delivery as directed by the Applicant or immediately on collection by the Applicant's transport contractor as the case may be.
- (b) Notwithstanding that the risk of loss or damage to the Goods passes to the Applicant in accordance with the previous sub-paragraph (a), property in and ownership of the Goods shall not pass to the Applicant until payment in full for the Goods shall have been received by the Supplier.
- (c) Until payment in full of the invoiced cost of the Goods shall have been received by the Supplier, the Applicant shall hold the Goods on a fiduciary basis as a bailee only for the Supplier and the Applicant shall (at its own expense) keep the Goods properly and safely stored separately from any other goods and stock of the Applicant and any other third party and in such a way as the Goods shall be readily identified as the Goods of the Supplier and the Applicant shall not, subject to sub-clause d(i), pledge, mortgage, charge or part with the Goods or attempt to do so without the prior written consent of the Supplier.
- (d)
 - (i) Notwithstanding that the property in the Goods has not passed to the Applicant, the Applicant may resell the Goods or any part thereof in the name of the Applicant but only as agent for the Supplier and may deliver any such Goods to the buyer of them but only on terms which will not prejudice the Supplier's ability to obtain the sale proceeds thereof.
 - (ii) Any amount paid by the buyer of such Goods from time to time to the Applicant (hereinafter referred to as "the sale proceeds") shall be held by the Applicant in trust for the Vendor, banked in a separate bank account relating only to the sale proceeds of the Goods of the Supplier under this and / or other contracts between the Supplier and Applicant and shall be forwarded as soon as possible after receipt to the Supplier.
 - (iii) If and when the full amount of the price of the Goods has been received by the Supplier, any further part of the price received by the Applicant upon any resale by it of the Goods may be retained by the Applicant as its commission for effecting such sale as agent for the Supplier.
- (e) An act of default of this contract shall be deemed to occur in the event of any of the following (and any of the acts described in sub-paragraphs (e) (i) to (iv) below are herein collectively referred to as an "Act of Default").
 - (i) the Applicant failing to make payment in full of the invoiced cost of the Goods within 30 days from the date of invoice,
 - (ii) the Applicant, if required herein, failing to insure the Goods from the date of delivery thereof by the Supplier and to provide evidence of such insurance to the Supplier,
 - (iii) any distress or execution being levied upon the Applicant's Goods or property,
 - (iv) the Applicant, being a company, becoming unable to pay its debts as they fall due, offering to enter into any scheme of arrangement with its creditors, the passing by the Board of Directors of the Applicant of any resolution to wind up the Applicant, the filing of any petition to wind up the Applicant or the appointment of an administrator or receiver / manager in respect of the Applicant's affairs, the Applicant, in the case of a natural person, being declared bankrupt,
 - (v) immediately upon the Applicant committing any Act of Default any right to sell the Goods in which the title to property remains vested in the Supplier shall cease forthwith and the Applicant shall upon the happening of any Act of Default immediately place all of the Goods

then remaining in its possession or under its control at the disposal of the Supplier and the Supplier is hereby irrevocably authorised by the Applicant to nominate a person to enter the Applicant's premises during normal business hours for the purpose of repossessing such of the Goods still in the possession or under the control of the Applicant and where necessary to use no more than reasonable force to liberate and take possession of the Goods. Where the Goods are stored in a warehouse conducted by a person other than the Applicant immediately upon committing any Act of Default the Applicant shall be deemed to have irrevocably appointed the Supplier the attorney of the Applicant with the authority in the name of the Applicant to direct the warehouseman to release any of the Supplier's Goods in the possession or under the control of the warehouseman whether or not the Payment Period has expired and the Supplier shall be at liberty to resell the Goods after repossession of the same pursuant to this clause.

- (f) Until the full amount of the price of the Goods due to the Supplier is received by the Supplier the Applicant
 - (i) shall maintain and keep full and up to date records of the Goods supplied by the Supplier including those Goods on-sold by the Applicant,
 - (ii) hereby irrevocably authorises the Supplier to enter its premises during normal business hours from time to time to inspect the residue of the Goods remaining unsold by the Applicant, the Applicant's records relating to the Goods and also to inspect the accounts including bank accounts into which the proceeds of sale of that part of the Goods already sold are by this clause required to be deposited pending payment to the Supplier.

3. RETURNS AND CREDIT

Any Goods purchased by the Applicant from the Supplier may only be returned to the Supplier where notification of the proposed return of the Goods is Received within seven (7) days of the date of delivery of the Goods to the Applicant and the Supplier has agreed in writing to accept the return of the Goods and the Goods are returned in good condition at the expense of the Applicant.

4. MISCELLANEOUS PROVISIONS

- (a) It is expressly agreed that any action, suit, dispute or proceedings arising from or in connection with the sale of goods pursuant to this Agreement or any matter between the parties hereto may be instituted, heard and determined in a court of competent Jurisdiction in the State of New South Wales or of such Other State of Australia nominated in writing by the Supplier and each party irrevocably submits to the jurisdiction of such court for the purpose of any such dispute, action, suit or proceedings.
- (b) The Applicant hereby irrevocably authorises the Supplier from time to time, in order to assess any application for credit, to obtain any information about the Applicant from any credit provider named in this application and also Gift & Homewares Australia to obtain a credit report in respect of the Applicant from any credit agency and to provide any information contained on this credit application form and also details of the performance of the Applicant in compliance with the trading terms and conditions herein to other credit providers, credit agencies and to Gift & Homewares Australia.
- (c) The Applicant further authorises the latter company to make such information available to other credit providers.
- (d) Freight and transport costs from the Supplier's nominated warehouse and in-transit insurance incurred in respect of the Goods are at the cost and liability of the Applicant and are not included in the invoiced price of the Goods.
- (e) The word "Goods" shall be deemed to refer to any goods obtained by the Applicant from the Supplier from time to time pursuant to this Agreement.
- (f) The Applicant shall be liable for and shall promptly pay to the Supplier;
 - (i) any legal costs incurred by the Supplier on a solicitor/client basis
 - (ii) any court, bailiff costs and services fees incurred by the Supplier
 - (iii) any fees paid to a debt collectorin respect of any action or court proceedings taken by or on behalf of the Supplier for the recovery of any monies due by the Applicant to the Supplier pursuant to this Agreement.
- (g) Service of any notice or document pursuant to this Agreement may be effected in any manner prescribed by Section 170 Conveyancing Act 1919 as amended (New South Wales) or any section or provision in substitution therefore.
- (h) The Supplier reserves the right to terminate this Credit Agreement at any time immediately upon service upon the Applicant of written notice of termination without providing any reason therefore.

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