

ACCOUNT APPLICATION FORM

ENTITY DETAILS:

Applicant's Full Legal Name (i.e. not trading name) :.....("the Client")

Trading

as:.....

 (Please tick) Sole Trader Individual Partnership Ltd Company Other (please state):.....

Physical

Address:.....

Postal Address:

.....

Telephone:..... Email:

Accounts Payable

Contact:.....Email:.....Phone:.....

Purchasing

Contact :.....Email :.....Phone:.....

Estimated Monthly Spend:.....

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

1: Address:

2: Address:

Date of Incorporation: Company/NZBN No:

Nature of Business:..... Years in Business:.....

FINANCIAL & PROFESSIONAL ADVISORS

Name of Accountant: Solicitor:

Bank:..... Branch: Acct No:

TRADE REFERENCES			
Company	Contact Name	Phone Number	Account open since

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 Fasteners Direct Global 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 Client. 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 of the company.

Signed *..... Print Name: Designation:

Dated this..... day of 20.....

*** PLEASE ALSO SIGN PAGE 2.**

The following terms and conditions of sale will apply to and form part of any contract for the supply of goods and services by Fasteners Direct Global to a client/customer, whether or not there is a 30 Day Credit Account Application. Any terms and conditions set out in the customer's order deviating from or inconsistent with these terms and conditions will not bind Fasteners Direct Global despite any statement by the client/customer in its order that its terms and conditions shall prevail over these terms and conditions.

1. DEFINITIONS

In these Terms:

- a. **"FDG", we, us or our** means Fasteners Direct Global Limited and (where the context permits) all its subsidiaries, affiliates and each of their respective directors, officers, partners, employees and agents.
- b. **"Client/Customer"** shall mean the client/customer or any person acting on behalf of and with the authority of the client/customer, or any person purchasing products and services from FDG.
- c. **"Goods"** shall mean:
 - i. All Goods of the general description specified on the front of this agreement and supplied by FDG to the Client; and
 - ii. All Goods supplied by FDG and further identified in any invoice issued by FDG to the Client, which invoices are deemed to be incorporated into and form part of this agreement; and
 - iii. All Goods that are marked as having been supplied by FDG or that are stored by the Client in a manner that enables them to be identified as having been supplied by FDG; and
 - iv. All of the Client's present and after-acquired Goods that FDG has performed work on or to or in which goods or materials supplied or financed by FDG have been attached or incorporated.
 - v. The above descriptions may overlap but each is independent of and does not limit the others.
- d. **"Goods and Services"** shall mean all goods, products, and services provided by FDG to the Client and all charges for labour, hire charges, insurance charges, or any fee or charge associated with the supply of Goods and Services by FDG to the Client.
- e. **"Price"** shall mean the cost of the Goods and Services as agreed between FDG and the Client and includes all disbursements e.g. charges FDG pay to others on the Client's behalf subject to clause 4 of this contract.
- f. **"Contract"** means a written contract signed by you and us for the supply of the relevant products.
- g. **"Terms/T&C's"** means the terms and conditions set out in this agreement
- h. **"PPSA"** shall mean the Personal Property Securities Act 1999.

APPLICATION OF THESE TERMS

These Terms apply to all purchase orders issued to us, except where there is a Contract that excludes these Terms. Where a Contract does not exclude these Terms, both the Contract and these Terms will apply to the supply of the products and, if there is any conflict between the Contract and these Terms, the Contract prevails.

2. ACCEPTANCE

- a. Any instructions received by FDG from the Client for the supply of Goods and Services shall constitute a binding contract and acceptance of the terms and conditions contained herein.
- b. By entering into this contract, you acknowledge that:
 - i. The T&C's express the entire understanding and agreement between us and you except as otherwise agreed in writing

3. COLLECTION AND USE OF INFORMATION

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

4. QUOTATION AND PRICE

- a. All quoted pricing must be in writing
- b. All prices (unless stated otherwise in writing) are:
 - i. For supply only, nett, ex-works;
 - ii. Exclusive of GST or sales tax;
 - iii. Based on quantities specified or discussed; lesser quantities may incur extra charges;
 - iv. Without allowance for installation or erection;
 - v. Valid for thirty (30) days;
 - vi. In New Zealand dollars.
- c. The price may be increased by the amount of any reasonable increase in the cost of supply of the Goods and Services that is beyond the control of FDG between the date of the contract and delivery of the Goods and Services.

5. PAYMENT

- a. Payment shall be made in full prior to delivery, unless the Client has satisfactory credit approval from FDG. If credit is granted, **full payment is due on the 20th day of the month following the invoice date** (unless otherwise agreed in writing). FDG shall be entitled to charge an interest rate of 2.5% per month on all sums which remain unpaid seven (7) days after the due date of payment. Additionally, the Client shall also be liable for all reasonable costs and expenses incurred, including but not limited to legal fees, by or on behalf of FDG, in recovering or attempting to recover either Goods or monies.
- b. Receipt of a cheque, bill of exchange, or other negotiable instrument shall not constitute payment until such negotiable instrument is paid in full.
- c. Before or during production, FDG may require a deposit and/or progress payments.
- d. If delivery shall be delayed or deferred (in whole or in part) due to any request, rescheduling, omission, oversight or default by the client, the due date may be calculated in accordance with the original schedule, even if any portion of the Goods remains in FDG's custody.

6. STORAGE

- a. If FDG is obliged to arrange or provide storage due to any request, rescheduling, omission, oversight or default by the Client, FDG shall be entitled to charge for storage at prevailing rates.

7. RISK AND DELIVERY

- a. Delivery of Goods and Services shall be deemed complete when FDG gives possession of the Goods and Services directly to the Client or possession of the Goods and Services is given to a carrier, courier, or other bailee for purposes of transmission to the Client.
- b. The time agreed for delivery shall not be an essential term of this contract unless the Client gives written notice to FDG making time of the essence. The Client must provide reasonable access and an appropriate areas for unloading the Goods. If unloading is delayed, the Client shall be liable to FDG for any additional handling and waiting charges incurred.
- c. Where FDG delivers Goods and Services to the Client by instalments and FDG fails to deliver or supply one or more instalments the Client shall not have the right to cancel the contract.

8. AGENCY

- a. The Client authorises FDG to contract either as principal or agent for the provision of Goods and Services that are the matter of this contract.
- b. Where FDG enters into a contract of the type referred to in clause a. it shall be read with and form part of this agreement and the Client agrees to pay any amounts due under that contract.

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

- a. Title in any Goods and Services supplied by FDG passes to the Client only when the Client has made payment in full for all Goods and Services provided by FDG and of all other sums due to FDG by the Client on any account whatsoever. Until all sums due to FDG by the Client have been paid in full, FDG has a security interest in all Goods and Services.
- b. If the Goods and Services are attached, fixed, or incorporated into any property of the Client, by way of any installation or assembly process by the Client or any third party, title in the Goods and Services shall remain with FDG until the Client has made payment for all Goods and Services, and where those Goods and Services are mixed with other property so as to be part of or a constituent of any new Goods and Services, title to these new Goods and Services shall be assigned to FDG as security for the full satisfaction by the Client of the full amount owing between FDG and Client.
- c. The Client gives irrevocable authority to FDG to enter any premises occupied by the Client or on which Goods and Services are situated at any reasonable time after default by the Client or before default if FDG believes a default is likely and to remove and repossess any Goods and Services and any other property to which Goods and Services are attached or in which Goods and Services are incorporated. FDG shall not be liable for any costs, damages, expenses or losses incurred by the Client 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. FDG may either resell any repossessed Goods and Services and credit the Client's account with the net proceeds of sale (after deduction of all repossession, storage, selling and other costs) or may retain any repossessed Goods and Services and credit the Client's account with the invoice value thereof less such sum as FDG reasonably determines on account of wear and tear, depreciation, obsolescence, loss or profit and costs.
- d. Where Goods and Services are retained by FDG pursuant to clause c the Client 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.
- e. The following shall constitute defaults by the Client:
 - i. Non-payment of any sum by the due date.
 - ii. The Client intimates that it will not pay any sum by the due date.
 - iii. Any Goods and Services are seized by any other creditor of the Client or any other creditor intimates that it intends to seize Goods and Services.
 - iv. Any Goods and Services in the possession of the Client are materially damaged while any sum due from the Client to FDG remains unpaid.
 - v. The Client is bankrupted or put into liquidation or a receiver is appointed to any of the Client's assets or a landlord distains against any of the Client's assets.

- vi. A Court judgment is entered against the Client and remains unsatisfied for seven (7) days.
- vii. Any material adverse change in the financial position of the Client.
- f. If the Credit Repossession Act applies to any transaction between the Client and FDG, the Client has the rights provided in that Act despite anything contained in these terms and conditions of trade.

10. PAYMENT ALLOCATION

- a. FDG may in its discretion allocate any payment received from the Client towards any invoice that FDG determines and may do so at the time of receipt or at any time afterwards and on default by the Client may reallocate any payments previously received and allocated. In the absence of any payment allocation by FDG, payment shall be deemed to be allocated in such manner as preserves the maximum value of FDG's purchase money security interest in the Goods and Services.

11. GENERAL LIEN

- a. The Client agrees that FDG may exercise a general lien against any Goods and Services or property belonging to the Client that is in the possession of FDG for all sums outstanding under this contract and any other contract to which the Client and FDG are parties.
- b. If the lien is not satisfied within seven (7) days of the due date FDG may, having given notice of the lien at its option either:
 - c. Remove such Goods and Services and store them in such a place and in such a manner as FDG shall think fit and proper and at the risk and expense of the Client; or
 - d. Sell such Goods and Services or part thereof upon such terms as it shall think fit and apply the proceeds in or towards discharge of the lien and costs of sale without being liable to any person for damage caused.

12. RETURNS AND CREDIT REQUESTS

- a. No claim relating to the Goods and Services will be considered unless made within seven (7) days of delivery and before installation. It is the responsibility of the Client or receiver, immediately upon receipt of the Goods and Services, to check the quantity and condition. The Client shall also satisfy himself immediately that the Goods and Services supplied are of the description, character, quantity and quality ordered and reasonably fit for the intended purpose.
- b. No Goods will be considered for return without prior approval of FDG. A restocking fee of 15% will apply. All Goods considered for return must be in undamaged original resalable condition. The Client is responsible for all costs associated with any Goods returned. All relevant invoices, packing slips and credit return form are required with all returned products.
- c. In any case of actual or suspected loss, damage or short delivery, the carrier's consignment note must be endorsed by noting the apparent defect, and by crossing out "received in good order and condition" from the consignment note. Notification must be given to FDG within one (1) working day, followed by a full and complete report within seven (7) working days. The client must lodge a formal claim with the carrier within the carrier's acceptance period for such claims.

13. LIABILITY

- a. The Consumer Guarantees Act 1993, the Fair Trading Act 1986 and other statutes may imply warranties or conditions or impose obligations upon FDG 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 FDG, FDG's 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.
- b. Except as otherwise provided by clause a FDG shall not be liable for:
 - i. Any loss or damage of any kind whatsoever including consequential loss whether suffered or incurred by the Client 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 Goods and Services provided by FDG to the Client; and
 - ii. The Client shall indemnify FDG against all claims and loss of any kind whatsoever however caused or arising and without limiting the generality of this clause the foregoing of this clause whether caused or arising as a result of the negligence of FDG or otherwise, brought by any person in connection with any matter, act, omission, or error by FDG its agents or employees in connection with the Goods and Services.
- c. FDG'S maximum liability, in any event shall only extend to the replacement of defective product or the refund of original purchase price.

14. WARRANTY

- a. The goods are conditionally guaranteed to be of good commercial quality, suitable for their normal application, and to be free from defective materials and workmanship for a period of one (1) year from the date of delivery, subject to the following provisions:
- b. This warranty does not cover deterioration due to fair wear and tear, deliberate or unintentional abuse, incorrect installation, unauthorised alteration, neglected maintenance, or electrical failure due to an excessive or inadequate supply of electricity;
- c. Auxiliary components included in the goods such as lamps, lens, electrical components and protective coatings are not included in this warranty, but are covered by their respective manufacturers warranties only;
- d. The Client is responsible for ascertaining that the goods are suitable and fit for the intended purpose;
- e. FDG may, at its sole discretion, decline to accept a warranty claim relating to goods for which any payment remains outstanding.
- f. The maximum warranty on any products or components bought in and on-sold by FDG will be the warranty given by our supplier of the respective items.

15. DIMENSIONS, DESCRIPTION & PERFORMANCE

- a. Specific requirements must be advised in writing with order. Dimensions and data quoted in general catalogue material are nominal and may be varied without notice, as development work is proceeding continuously. Installation recommendations (where provided) are given in good faith. The Client or his agent is responsible to ascertain before installation that the recommendations and/or the goods are suitable for the site and the conditions of service. Performance projections include an allowance for normal manufacturing variations.
- b. FDG will endeavour to satisfy the Client's colour requirements, but in any case a reasonable variation will be allowable. Non-standard colours may incur an extra charge.

16. COPYRIGHT

- a. FDG, owns and has copyright in all illustrations, plans, artistic work, data, software and designs and documents produced by FDG in connection with the Goods and Services provided pursuant to this contract and the client may use the Goods and Services only if paid for in full and for the purpose for which they were intended and supplied by FDG.

17. TOOLING AND DRAWINGS

- a. Any dies, tools, patterns, jigs, drawings or designs made by FDG in order to promote or produce goods shall at all times remain the property of FDG, and any amount paid by the Client in relation to them shall be deemed to be a charge in respect of their development and use.
- b. Unless otherwise specifically agreed with the Client, FDG may use or dispose of this equipment as they see fit without accounting to the Client.

18. CONSUMER GUARANTEES ACT

- a. The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the Client acquires Goods and Services from FDG for the purposes of a business in terms of section 2 and 43 of that Act.

19. PERSONAL GUARANTEE OF COMPANY DIRECTORS OR TRUSTEES

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

20. GENERAL

- a. All of our rights, powers, exemptions and remedies shall remain in force notwithstanding any neglect, forbearance or delay in the enforcement of them.
- b. If any of these T&Cs is held by a Court to be ineffective for any reason, then that term or condition or part of it will be severed from all other terms and conditions without affecting the validity or enforceability of all other terms and conditions or part of them.
- c. We may vary these T&Cs at any time by notice in writing to you. Any such variation shall apply to orders accepted by us after the variation has been made.
- d. If any dispute or different arises concerning the construction of any term or accompanying document or in regard to any of the respective rights and obligations of the parties or in any way having any relation to the subject of the contract between the parties or any claim arising from or in relation to the same, it shall be submitted to arbitration before a single arbitrator in accordance with the Arbitration Act 1996 [NZ].
- e. You acknowledge that you have received a copy of these T&Cs and that these T&Cs constitute a 'security agreement' for the purposes of the PPSA and that we may register a financing statement in respect of this agreement.
- f. The contract shall be deemed to be a contract made in New Zealand and its construction, validity and performance shall be governed by New Zealand law (but expressly excluding the United Nations Convention on Contracts for the International Sale of Goods) and the parties submit to the non-exclusive jurisdiction of the New Zealand Courts.
- g. Nothing contained in this these T&Cs will be deemed or construed to constitute any party to be a partner, agent, franchisee or representative of any other party, or to create any trust or commercial partnership. No party shall have the authority or power to bind the other or to contract in the name of the other in any way or for any purpose.

SIGNED:.....
 PRINT NAME:.....
 TITLE:.....
 DATE:.....