



573 Grand Junction Road – GEPPS CROSS SA 5094

# Tile Centre – Credit Application

## PRIVACY CONSENT AGREEMENT – PLEASE READ – DATE - SIGN

Subject to and in consideration of written acceptance of this Application and supply by you of goods and/or services on credit, I/we being the Applicant (if a Sole Trader or Company) or the Partners of the Applicant (if a Partnership/Firm and with full authority to make this Application for and on behalf of any Partner(s) who may not have signed): -

(a) Declare the information provided in the Application is complete, true and correct;(b) Agree (jointly and severally, if more than one) to be bound by the attached terms and conditions, as if specifically incorporated into this Agreement;(c) Authorise and consent to you:(i) Obtaining and using credit information and/or credit reporting information about me/us (including as contained in this Application and/or obtained from my/our above Bank or Trade Referees and/or any other credit provider or any other credit reporting body) for the purposes of assessing this Application for credit and, if an account is opened, to thereafter monitor and review my/our credit worthiness, including with respect to any commercial credit as may be granted to me/us and also for the purpose of debt collection; and (ii) Disclosing all or part of the aforesaid information to any credit reporting body and/or any other credit provider and/or my/our guarantor(s) seeking such information from you; and (iii) Using or disclosing such information (including to third parties) for the purposes of providing me/us with information about your goods and/or services, forwarding advertising, marketing and/or promotional material, conducting customer education programs and/or satisfaction surveys, managing/administering credit card/direct debit payment systems and otherwise as permitted or required by law. -

For the purposes of this sub-paragraph (c), I/we acknowledge that the above words/terms in italics shall have the same meanings as defined in the Privacy Act 1988 C'th; -

I/we have read the Important Notice (Privacy Act) below before signing; and (d) Declare that the credit to be provided to me/us by you is to be applied wholly or predominantly for business purposes or investment purposes (other than investment in residential property) and I/we have read the Important Notice (National Credit Code) below before signing.

### IMPORTANT NOTICES (PRIVACY ACT 1988):

1. If you do not supply all of the information requested the Tile Centre may be unable to consider your Application and we may not be able to provide you with a Credit Trade Account.
2. The Tile Centre is committed to compliance with the Privacy Act 1988 C'th including the thirteen (13) Australian Privacy Principles contained in Schedule 1 to such Act and the associated Privacy (Credit Reporting) Code 2014 (Version 1.2), in relation to the collection, use, management, protection and disclosure of information about individuals.

### IMPORTANT NOTICE (NATIONAL CREDIT CODE):

You should ONLY sign this Agreement/Declaration if the credit you seek is wholly or predominantly for business purposes or investment purposes (other than investment in residential property). By signing this Agreement/Declaration you and any Guarantor(s) may LOSE protection under the National Credit Code.I Acknowledge & Sign that I have read the Privacy Agreement : SIGN:..... DATE:.....



Entity Verification

ABN / ACN : .....

Trading Business Name:.....

Applicants Name :.....

Registered Business Name:.....

Business Information / Applicants Details

**PRIMARY CONTACT – ACCOUNT HOLDER**

First Name:..... Last Name:.....

Mobile:..... Home/Office:.....

Drivers Licence:.....

Email:.....

**SECONDARY CONTACT**

First Name:..... Last Name:.....

Mobile:..... Home/Office:.....

Drivers Licence:.....

Email:.....

**ACCOUNTS CONTACT**

First Name:..... Last Name:.....

Phone:.....

Email:.....

Trading Business Address

**BUSINESS ADDRESS**

Street Number: .....Street Name:.....Street Type:.....

Suburb:.....State:..... Post Code:.....

Postal Address:.....



Billing Address

AS ABOVE: .....

Street Number: .....Street Name:.....Street Type:.....

Suburb:.....State:..... Post Code:.....

Postal Address:.....

Credit Details

PLEASE INDICATE

Credit Account Required- Please Circle: YES NO

Monthly Credit (value) Required:.....

Cash Account Only REQUIRED (Pay as you go): YES NO

Trade References

Please provide at least two other suppliers that are providing you with a Credit Account up to 30 days.

Supplier 1.

Business Name:..... Phone:.....

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

Supplier 2.

Business Name:..... Phone:.....

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

Supplier 3.

Business Name:..... Phone:.....

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

Builders / Tilers Trade Licence Details

Name On Licence:.....

Licence Number:.....

Expire Date:.....



Name Of Guarantor If Applicable

First Name:..... Last Name:.....

Date Of Birth:..... Country:.....

Residential Address:.....

.....

Applicants Copy of Drivers Licence

Please provide a photocopy of your current drivers licence.

Fix Licence Here  
Or Attach To End Of Application

Terms and Conditions

You must agree to the following terms and conditions to complete your Credit Application Account.

Terms and Conditions of Trade

1. These terms and conditions:

1.1. Apply to all supply of goods and/or provision of services by you/the supplier to the customer and otherwise govern the trading relationship between the parties with force and effect from the date of execution by or on behalf of the customer of the attached Application for Commercial Credit Trade Account (or the time of execution, if for any reason such Application is not dated);

1.2. Constitute the entire agreement between the parties with respect to the supply of goods and/or the provision of services and supersede any and all prior negotiations, representations, understandings, arrangements and agreements (whether oral and/or in writing); and

1.3. Prevail over the customer's terms and conditions (if any) unless you specifically and expressly agree in writing to be bound by the customer's terms and conditions or any of them and acknowledge the resultant variation or exclusion of these terms and conditions to the extent agreed.

2. Throughout these terms and conditions, references to "you" or "the supplier" shall mean, refer to and include the **Tile Centre ABN: 9361 1622 694** and any and all of its 'Related Bodies Corporate' and/or 'Associated Entities' as such terms are defined in the Corporations Act 2001 (C'Th), whether existing coming into existence at any time in the future.

3. The price for all goods and/or services (including your delivery/freight charges) shall be paid, without any deduction or set-off, to you by electronic funds transfer (or any other manner permitted by you from time to time) **within fourteen (14) days** from the end of the month in which goods and/or services are supplied or provided. Cheques will not be accepted as payment.

Unless otherwise expressly stated, all prices for goods and/or services (including delivery/freight charges) quoted, advised or otherwise in any way published by the supplier are exclusive of the supplier's liability for GST and the supplier will include such liability in its invoices to the customer and which the customer must pay.



Should payment not be made within the above credit period, interest at the rate of 6.75% per annum above the then current 'Commercial Overdraft Rate' of ANZ Bank on the overdue amount(s) may, at the discretion of the supplier acting reasonably and without prior notice, be debited to the customer's account and the customer:

3.1 acknowledges and agrees that such interest is reasonably necessary to protect the legitimate interests of the supplier; and

3.2 agrees to pay such interest from the due date(s) for payment until paid in full.

4. The customer is responsible for and liable to the supplier for all payment obligations hereunder even if the amount outstanding at any time is in excess of the estimated monthly credit sought by the customer or any credit limit which may have been imposed by the supplier and it is expressly acknowledged and agreed by the customer that any credit limit is intended by the parties to provide a trading guide only and shall not have any contractual effect and the customer further expressly acknowledges and agrees that the supplier may at any time, from time to time and without having to give any prior notice, withdraw, suspend or vary (up or down) any credit limit depending solely upon the supplier's assessment of the customer's trading performance and otherwise for the supplier's own benefit and purposes (acting reasonably).

5. You will not be responsible for a delay in delivery or failure to deliver/provide goods and/or services caused by any circumstance(s) beyond your control and/or otherwise force majeure and shall not be liable for any resultant consequential loss or damage suffered by the customer, nor any loss or damage due to the packaging or unloading of goods and nor shall you be liable for any damage to person or property caused or contributed to by the entry of your contractors / employees or agents upon any premises to deliver goods, unless such liability arises as a result of a breach of this agreement by the supplier or any negligent, wilful or reckless act or omission of the supplier.

Subject to the exception set out above in this Clause 4, the customer shall indemnify and hold harmless the supplier from and against any liability whatsoever under or arising out of the provisions of this Clause.

6. Goods supplied are at the customer's risk from the time of delivery to the customer, either at the specified premises of the supplier (if goods are collected by the customer) or at the customer's nominated place for delivery (if you have agreed to transport the goods), in either case including all risks associated with loading or unloading, as the case may be.

Immediately upon delivery the customer must carefully inspect and examine the goods and exercise any right to reject/return the goods **BEFORE the goods are laid, fixed, installed or otherwise used in any way**, failing which the customer will be deemed to have accepted the goods and lost any entitlement to claim any remedy from the supplier, unless the supplier is in breach of this agreement, or has committed any negligent, wilful or reckless act or omission, in relation to the quality or condition of such goods and the customer is not aware of, nor should the customer ought reasonably be aware of, such breach, act or omission before the goods are laid, fixed, installed or otherwise used in any way.

7. Notwithstanding delivery of goods and the passing of risk to the customer, you shall retain legal and equitable title to and absolute ownership of all goods until paid for in full and, pending payment, the following provisions shall apply:

7.1. The customer shall hold the goods as bailee for the supplier, storing the goods in the packaged form as delivered so as to be clearly identifiable as the property of the supplier and also keep and be able to produce the supplier's Invoices relating to such goods;

7.2. If the customer falls into any default under Clause 3 or in the event the customer becomes the subject of any form of insolvency appointment, administration, control, compromise, arrangement or other proceedings or process under the Bankruptcy Act 1966 (C'th) or the Corporations Act 2001 (C'th), the supplier (acting reasonably) shall be entitled (without prejudice any of its rights) to immediately and without notice retrieve and retake possession of the goods and otherwise exercise and assert its rights to and over the goods as the legal and equitable owner thereof (including the right to resell the goods) and to facilitate the supplier's entitlement hereunder the customer agrees to obtain the consent of any relevant third party and irrevocably authorises and licenses the supplier and its appointed contractors/employees or agents to enter upon any premises (including premises of third parties) where the goods are located and the customer shall indemnify and hold harmless the supplier from and against any liability whatsoever arising out of any act done by the supplier in the exercise of its entitlement hereunder;

7.3. Should the customer have sold or on-supplied the goods to a third party in the ordinary course of the customer's business and payment has been received (whether wholly or partly):

7.3.1. the proceeds must be held by the customer in a distinct account on trust for the sole benefit of the supplier and the customer shall account to the supplier upon demand;

7.3.2. to the extent payment has not been received, the customer shall at the written request of the supplier:

(a) Assign the customer's claim against the third party debtor to and in favour of the supplier and for the purpose of effecting/perfecting such assignment the customer irrevocably makes, nominates, constitutes and appoints any and all of the supplier's General Manager, Commercial Manager and Credit Manager as the customer's attorney; and/or

(b) Disclose the location of the goods, even if altered and/or incorporated and/or used up or applied in a manufacturing or construction process or development;

7.4. If requested by the supplier, the customer shall disclose the name, address and contact details for any third-party debtor and/or third party recipient of goods originally supplied by the supplier to the customer;

7.5. For clarity, the retention of title provisions of this Clause 7 are intended to create and grant in favour of the supplier a 'Purchase Money Security Interest' as such term is defined in the PPSA in respect of any and all goods supplied from time to time by the supplier to the customer.



8. In relation to the PPSA:

- 8.1. The customer acknowledges that you may register a security interest (including a Purchase Money Security Interest) over and against the commercial property of the customer;
- 8.2. In accordance with section 157(3)(b) of the Act, the customer waives the right to be given notice of any verification statement issued by the Registrar of Personal Property Securities to you verifying the registration of a financing statement and/or a financing change statement by way of security for payment for the goods supplied to the customer hereunder;
- 8.3. To the extent permitted under section 115, the supplier and the customer agree that the provisions of ss130, 132(4) and 135 do not apply;
- 8.4. For the purposes of this clause and the application of the PPSA to this agreement:
- 8.4.1. 'PPSA' or 'the Act' means the Personal Property Securities Act 2009 and refer to sections contained in the Act;
- 8.4.2. The terms 'security interest', 'Purchase Money Security Interest', 'commercial property', 'verification statement', 'financing statement' and 'financing change statement' have the meanings as defined in the Act;
- 8.4.3. This agreement constitutes a 'security agreement' as defined in and for the purposes of the Act;
- 8.4.4. Reference throughout this agreement to the term 'goods' means and refers to any goods supplied by the supplier to the customer being more particularly described as, but without limitation, tiles and related products (including timber and any other type of wall and/or floor finishing's), extending to kitchenware and bathroom ware and also including products such as tools, adhesives, grouts and any and all other ancillary or associated products and further extending to the supply of tools or equipment on a hire-charge basis.

9. If the customer is a 'consumer' as such term is defined for the purposes of the Australian Consumer Law ('ACL') and the supplier supplies goods or services used for personal, domestic or household purposes and/or otherwise not excluded from cover by consumer guarantees because of the customer's use of the goods, then the customer acknowledges and agrees that for any failure of the supplier to meet and comply with any applicable consumer guarantee, excepting those consumer guarantees under ss51, 52 and 53 of the ACL dealing with issues of title, undisturbed possession and undisclosed securities respectively, the liability of the supplier shall be limited, at the election of the supplier and in its absolute discretion, to one or more of the replacement of the goods or the supply of equivalent goods, the repair of the goods or payment of the cost of having the goods repaired, the payment of the cost of replacing the goods or of acquiring equivalent goods or, in relation to the provision of services, to the supply of the services again or paying the cost for having the services supplied again.

10. With respect to the supply of goods which are tiles, the customer acknowledges and agrees:

- 10.1. Tiles may contain, display or be subject to one or more of the following inherent characteristics or phenomena:
- 10.1.1. Variations in size, weight, density, colour, shade, pattern, veining, markings texture, surface, finish and durability;
- 10.1.2. Crazing, spots, specks and/or blemishes;
- 10.1.3. Optical effects such as hazing or smudging resulting from different strengths and angles of light falling upon and/or reflecting off the tiles and/or the interaction with the tiles of reflecting light from differing sources and intensities and/or the impact of shadows upon the tiles;
- 10.2. Such inherent characteristics or phenomena are not defects, flaws or imperfections and tiles containing, displaying or subject to any of these characteristics or phenomena are not faulty, defective or of unacceptable quality.

11. Subject to Clauses 9 and 10 or as may be otherwise expressly agreed between the supplier and the customer, to the fullest extent permitted by law:

- 11.1. Any and all terms, conditions, warranties or representations (unless in writing and signed by the supplier) which would or could be implied or incorporated herein are excluded and the supplier's maximum liability for any loss suffered by the customer for which the supplier is proven to be responsible or is prepared to accept responsibility shall be limited in the same way as specified in Clause 9; and
- 11.2. Under no circumstances shall the supplier be liable to the customer for:
- 11.2.1. Any claim made after goods have been laid, fixed, installed, damaged, spoiled, altered or otherwise used by the customer;
- 11.2.2. Any claim made with respect to, in connection with or arising out of any of the characteristics or phenomena of tiles as referred to in Clause 10; and/or
- 11.2.3. Any claim made under, in connection with or arising out of these terms and conditions whether in tort, under Statute, in equity or otherwise with respect to any damage or injury to person or property and/or any consequential loss or damage, whether direct or indirect and whether or not likely or reasonably foreseeable (extending to and including any loss of income, profit or business and/or goodwill or reputation), unless such liability arises as a result of a breach of this agreement by the supplier or any negligent, wilful or reckless act or omission of the supplier.

12. In relation to the return of goods:

- 12.1. The customer may reject and return goods at the customer's expenses (unless otherwise agreed in writing) to the supplier if and provided that:
- 12.1.1. Subject to Clauses 6 and 10, the goods are damaged as delivered, wrongly supplied, defective or otherwise not supplied in accordance with the supplier's contractual obligations;
- 12.1.2. The goods are returned in the original state and condition in which they were supplied, contained in the same boxes and together with all packaging and instruction materials;
- 12.1.3. The goods are returned within 14 Days (14) Days of the date of the supplier's invoice, together with notice of the applicable invoice number(s) corresponding to the goods;
- 12.1.4. The goods are assessed by the supplier (acting reasonably) as being in as new and saleable condition and, in particular, the returned goods are from current stock still held in store and, if relevant/applicable, able to be matched to current stock shades; and
- 12.1.5. The customer pays or bears a restocking fee of twenty-five percent (25%) of the price for the returned (plus GST) and the customer acknowledges and agrees that such fee is reasonably necessary to protect the legitimate interests of the supplier.



12.2. The customer cannot reject and return the following goods under any circumstances:

- 12.2.1. Goods specially made, sourced, ordered or purchased for the customer;
- 12.2.2. Goods which have been laid, fixed, installed, damaged, spoiled, altered or otherwise used by the customer;
- 12.2.3. Goods which were sold at wholesale or discounted prices, or as second grade or quality;
- 12.2.4. Goods which are no longer held in stock in store by the supplier, have been discontinued or cannot be matched to current stock shades, unless such goods are damaged as delivered, wrongly supplied or otherwise not supplied in accordance with the supplier's contractual obligations.

13. In relation to quotations:

- 13.1. The supplier accepts no responsibility for errors in its quotations and/or the supply of goods where based on inaccurate measurements and/or quantities provided by the customer, with any over-supply being subject to Clause 12 dealing with the issue of returns and any short-supply and/or any other extra or consequential requirements or variations of the customer being subject to the availability of matching goods and written acceptance by the customer of the supplier's adjusted price and any additional costs and charges;
- 13.2. No quotation given by the supplier shall be valid or binding unless in writing and signed by or on behalf of the supplier by a duly authorised employee;
- 13.3. Subject to sub-paragraph 13.4, prices given in any quotation remain valid for a period of thirty (30) days only from the date thereof, unless stated otherwise in the quotation or subsequently confirmed in writing by the supplier upon expiration of such period;
- 13.4. In any quotation, prices and delivery/freight charges are quoted as at the date of the quotation and, unless prices/charges are stated to be 'fixed', if the supplier's costs vary between the dates of quotation and supply, then the supplier reserves the right to adjust quoted prices and/or charges;
- 13.5. Quotations must be accepted in writing by the customer and accompanied by delivery instructions;
- 13.6. Unless already specified/included, prices given in any quotation are subject to additional payments for GST and the supplier's delivery/freight charges.

14. To secure to you all monies payable or to become payable under this agreement:

14.1. All my/our right, title, estate and interest which I/we (and if more than one, jointly and severally) have or may hereafter acquire in:

- 14.1.1 any freehold property; or
- 14.1.2 any leasehold property,

shall by force of the execution of this agreement (and with effect from the date or time of execution, if for any reason this agreement is not dated) stand charged and is hereby so charged by me/us in your favour with the payment of all such monies payable or to become payable by me/us hereunder; and

14.2. I/we declare that the above charge shall extend to and include any freehold property or leasehold property in respect of which I/we are trustee(s) of any trust and in such case, I/we further declare that I/we have full and complete power and authority under the applicable Trust Deed(s) to enter into this agreement and charge the property of which I/we are trustee(s); and

14.3. I/we further agree to be liable for and pay to you all legal costs on a full indemnity basis to which you are put as a result of taking any steps to notify, protect, recover under and/or enforce in any way the charge(s) hereinbefore created consequent upon default.

15. If I/we are the trustee(s) of any trust, then I/we enter into this agreement in both my/our personal capacities and also as trustee(s) of any trust and, in such case, I/we declare that I/we have full and complete power and authority under the applicable Trust Deed(s) to execute this agreement and bind the Trust(s) and, in particular, to charge freehold property or leasehold property of the Trust(s) for the purposes of Clause 14.

16. The customer must give written notice within seven (7) days of any change in trading/operating status (whether by way of formation of a partnership, change in the number of partners comprising an existing partnership, introduction of a company and/or trust or otherwise) and submit a duly completed, dated and signed replacement Application for Commercial Credit Trade Account (together with Guarantee and Indemnity, if applicable) and UNLESS/UNTIL ACCEPTED IN WRITING by the supplier, the customer shall remain responsible for the obligations on the part of the customer and continue to be liable to the supplier (notwithstanding the supplier may have knowledge of such change of status from any other source) for any indebtedness or liability existing as at the date of receipt of notice from the customer and in respect of any subsequent supply of goods and/or services until such time as the customer is released upon written acceptance by the supplier of the aforesaid replacement Application for Commercial Credit Trade Account.

17. Each and every acceptance by the supplier of the customer's orders shall be governed by the laws of South Australia and the Commonwealth of Australia and notwithstanding Clause 3 stipulating the primary and preferred place for payment, for default purposes it is expressly agreed that payment for all goods and/or services shall be deemed payable and to have been paid within the district of Adelaide Courthouse in South Australia and any proceedings for debt or otherwise enforcement of the supplier's rights hereunder shall so far as is possible be instituted, heard and determined by the Magistrates or District Courts in South Australia or otherwise the nearest court of competent jurisdiction to such Courthouse and it is hereby agreed and declared that such courts shall have, possess and be vested with territorial jurisdiction for the purpose of hearing and determining any such proceedings.

18. It is hereby further agreed that a statement in writing signed by your General Manager, Commercial Manager or Credit Manager of the monies due and owing under this agreement at the date set out in any such statement shall be prima facie evidence of the amount so due and owing.



19. You (acting reasonably) may vary these terms and conditions from time to time by giving written notice to the customer and giving the customer a reasonable period of time to object to such variations. The customer agrees that the placement of orders for goods and/or services made after such notice is given will constitute acceptance by the customer of the varied terms and conditions and the delivery of goods and/or the provision of services shall thereafter be on the basis of the varied terms and conditions.

20. If any term or condition of this agreement is or becomes void, voidable or unenforceable by reason of statutory invalidity or otherwise, then such term or condition shall be severed so as to preserve the remaining terms and conditions with full force and effect and, further, in the event of any inconsistency or conflict between these terms and conditions and any terms and conditions incorporated into the suppliers invoices, contained in any other document or otherwise published, these terms and conditions shall prevail to the extent of such inconsistency or conflict AND (subject to Clause 1.3) these terms and conditions shall in all circumstances prevail over the customer's terms and conditions (if any) as may be endorsed on or incorporated into orders, contained in any other document or otherwise published.

**Acceptance of Terms and Conditions – PLEASE SIGN BELOW**

**First Name:**.....**Surname:** .....

**Date:**.....

**Signature:**.....