



# APPLICATION FOR 30 DAY COMMERCIAL CREDIT ACCOUNT

Please return the completed Credit Application and Guarantee to

1. Give the form to your Fire Protection Coatings Ltd representative
2. Post the document to Fire Protection Coatings Ltd PO Box 19-888 Woolston, Christchurch 8022 New Zealand
3. Email to [info@fireshield.co.nz](mailto:info@fireshield.co.nz) or your Fire Protection Coatings Ltd representative.

Date of Application

## Applicant Details

Applicants Name

Applicants means company, partnership or sole trader applying for the credit account

Company or other Registration Number

Ltd     Pty Ltd     Partnership     Sole Trader

Is the applicant in any way associated with a trust?     Yes     No

Trading As (If Different From Applicant)

Business Address:

Postal Address (If different from above)

Business Phone Number

Mobile

Fax

LBP Number (If Applicable)

Estimated Monthly Purchase \$

Order Confirmation Required     Yes     No    Is Value Required?     Yes     No    Order Confirmation Email Address

Statement Delivered By Email?     Yes     No    Statement Email Address

Invoice Delivered By Email?     Yes     No    Invoice Email Address





## Trade References

### Please Supply 4 Trade References:

Note the value of the references should be equal to the value of this account application monthly from Fire Protection Coatings Ltd .

Name of Reference

Contact Person

Phone Number

Avg Monthly Purchases

Name of Reference

Contact Person

Phone Number

Avg Monthly Purchases

Name of Reference

Contact Person

Phone Number

Avg Monthly Purchases

Name of Reference

Contact Person

Phone Number

Avg Monthly Purchases

### Acknowledgement and Authority

The person completing and signing this application on behalf of the Applicant:

- Warrants that they are authorized to do so and their execution of this application will bind the Applicant;
- Warrants that the details provided in this form are true and correct;
- Acknowledges that they have read, understood and agree to be bound by the terms and conditions of sale which form part of this application (as modified by Fire Protection Coatings Ltd from time to time);
- Acknowledges that where the Applicant is a company, personal guarantees may be required as a condition of credit.

### The Applicant Authorises Fire Protection Coatings Ltd to:

- Obtain any information concerning the Applicant's affairs as Fire Protection Coatings Ltd deems necessary;
  - Exchange with credit reporting agencies information about the Applicant's credit activities and credit worthiness;
  - Disclose to or provide any other person with such other information in respect of the Applicant. The Applicant authorises any other party to provide information about the Applicant's credit activities and credit worthiness to Fire Protection Coatings Ltd . To the extent required under the Privacy Act 1993 the Applicant is entitled to have access to and to request correction of personal information concerning the Applicant which has been collected by Fire Protection Coatings Ltd .
- The Applicant authorises Fire Protection Coatings Ltd to use any information concerning the Applicant or the Applicant's affairs for the purpose of marketing and promoting its goods and services and those of any entity related to Fire Protection Coatings Ltd .

### Fire Protection Coatings Ltd requires the details and signatures of all:

Directors

Partners

Proprietors

1 Full Name

2 Full Name

Drivers License Number

Drivers License Number

Signature

DOB

Signature

DOB



## Guarantee, Indemnity and Charge

### WARNING IMPORTANT DOCUMENT!

Before you sign you should read it carefully and you may wish to consult your lawyer and/or financial adviser.  
 In consideration of Fire Protection Coatings (NZ and Australia) Limited (Fire Protection Coatings Ltd ) agreeing to supply goods and services on credit to the applicant named below (Applicant)

### I/we hereby agree as follows:

1. I/We guarantee to Fire Protection Coatings Ltd the due payment by the Applicant of all moneys now or that may at any time in the future be owing by the Applicant to Fire Protection Coatings Ltd for or in connection with all goods supplied and services provided from time to time by Fire Protection Coatings Ltd to the Applicant and the performance by the Applicant of all other terms and conditions under contracts or arrangements it may enter into with Fire Protection Coatings Ltd from time to time.
2. I/We indemnify Fire Protection Coatings Ltd against any costs, expenses and losses which Fire Protection Coatings Ltd may incur or suffer as a result of the Applicant failing to make due payment and not performing any of the other terms and conditions under contracts or arrangements it may enter into with Fire Protection Coatings Ltd from time to time.
3. This shall be a continuing guarantee and shall only be revocable upon me/us giving to Fire Protection Coatings Ltd not less than sixty (60) days written notice of my/our desire to be released from this guarantee and such revocation shall only apply in respect of any obligations of the Applicant to Fire Protection Coatings Ltd arising after the expiration of such period of notice.
4. No waiver or forbearance by Fire Protection Coatings Ltd to enforce any provision of any contract or arrangement against the Applicant and no extension of time or other indulgence granted by Fire Protection Coatings Ltd to the Applicant at any time shall vitiate or reduce my/our liability as a guarantor.
5. No liquidation, appointment of receiver or administrator, or other financial default by the Applicant of any nature, shall absolve me/us from personal liability under this guarantee.
6. I/We acknowledge that although as between the Applicant and me/us, I/we may only be a guarantor as between me/us and Fire Protection Coatings Ltd, I/we are a principal debtor and my/our liability as a principal debtor shall not be affected or diminished by any act, indulgence or omission which but for this provision would have offered to release me/us or any of us wholly or partly from liability to Fire Protection Coatings Ltd.
7. Where this guarantee is given by more than one person, we acknowledge that our liability shall be joint and several.
8. Any demand against me/us pursuant to this guarantee shall be made by way of written notice which shall be sufficiently served if forwarded to me/us at the address or addresses listed below.
9. In support of my/our guarantee, I/we hereby charge in favour of Fire Protection Coatings Ltd all of my/ our right, title and interest in and to any real property that I/we own either alone or jointly with any other person or persons as further security for the performance of the obligations of the Applicant to Fire Protection Coatings Ltd and agree that Fire Protection Coatings Ltd may register a caveat in respect of the security hereby created.

### This document is executed as a deed by each Guarantor

Signature Of Guarantor	Signature Of Witness	Signature Of Guarantor	Signature Of Witness
Full Name Guarantor	Full Name Witness	Full Name Guarantor	Full Name Witness
Address of Guarantor	Address of Witness	Address of Guarantor	Address of Witness
Email Address Guarantor	Email Address Witness	Email Address Guarantor	Email Address Witness
Signature Of Guarantor	Signature Of Witness	Signature Of Guarantor	Signature Of Witness
Full Name Guarantor	Full Name Witness	Full Name Guarantor	Full Name Witness
Address of Guarantor	Address of Witness	Address of Guarantor	Address of Witness
Email Address Guarantor	Email Address Witness	Email Address Guarantor	Email Address Witness

## TERMS AND CONDITIONS OF SALE

### SCOPE AND DEFINITIONS:

Unless otherwise expressly agreed in writing these Terms and Conditions supersede any earlier conditions appearing in catalogues or elsewhere and override any terms, conditions or warranties stipulated, incorporated or referred to by the Customer. All contracts for the sale of Goods by Fire Protection Coatings Limited (FPC) to the Customer shall be subject to these Terms and Conditions (as amended from time to time by FPC and notified in writing to the Customer or appearing on the FPC website at [www.fireshield.co.nz](http://www.fireshield.co.nz)).

In these Terms and Conditions:

- "Goods" means all products supplied by FPC to the Customer under these Terms and Conditions as described in any invoice or other commercial document evidencing sale.
- "Officer" means any director of FPC, any of FPC's employees whose title includes the word Manager or any other person authorized by FPC to act in any capacity.

### 1. QUOTATIONS, ORDERS AND ACCEPTANCE:

- Unless otherwise agreed in writing, prices are based on FPC's rates and costs as at the date of quotation of materials, transport, labour and other costs. Prices may be increased by the amount of any increase in the cost to FPC of any such item or any other factors (including any change in exchange rates) affecting FPC's cost of supply, production, labour or delivery of the Goods.
- Without limiting the generality of the foregoing, any alteration in quantity, sizes, specification, complexity of work or delivery may necessitate an adjustment of prices.
- Orders are subject to FPC's minimum order conditions and charges, and manufacturing limitations for various items.
- Orders must be in writing. No binding contract shall exist until the Customer's order has been accepted in writing by FPC.
- No order may be suspended, cancelled or amended without FPC's agreement in writing and the Customer shall be liable for all costs incurred by FPC, including but not restricted to purchases, stock, work in progress, labour costs or unrecovered overheads consequent upon the suspension, cancellation or amendment of any order agreed to by FPC.

### 2. DISPATCH & DELIVERY:

- Dispatch and delivery times are estimates only. FPC shall use reasonable endeavours to ensure that Goods are dispatched and delivered within any time stipulated, or if no time is stipulated, within a reasonable time from the acceptance of an order, but FPC shall not be liable for any delay in dispatch or delivery.
- Where Goods are delivered by instalments, each instalment shall be deemed for such purpose to be the subject of a separate contract and any delay in dispatch or delivery of any instalment shall not entitle the Customer to cancel the order or any instalments remaining to be delivered. In the event that the Customer breaches these Terms and Conditions in respect of any instalment, FPC may treat the default as a breach of contract relating to each other instalment.
- If the Customer is unable to accept delivery of the Goods at the time when the Goods are due and ready for delivery, FPC may either store the Goods at its own premises or arrange for suitable storage by a third party until actual delivery and the Customer shall be liable to FPC for the costs of such storage, including any additional handling, insurance and transport costs. This provision shall be in addition to and not in substitution of any other loss or damage for which the Customer may become liable due to its failure to take delivery at the appropriate date.
- FPC reserves the right to apply delivery charges to all deliveries into the Customer's premises or to site or other location specified by the Customer. FPC may also apply additional freight charges for deliveries: outside the city from which the Goods are dispatched, or, by alternative means of transport.
- Risk of any loss, damage or deterioration in the Goods ordered shall pass to the Customer as soon as the Goods are delivered into the Customer's premises or to site or other location specified by the Customer or, where Goods are collected, as soon as the Goods have been loaded on the Customer's vehicle or the Customer's contractor's vehicle.
- FPC accepts no liability for off-loading the Goods from the delivery vehicle and the Customer shall keep FPC indemnified from and against all claims whatever arising from such off-loading.
- FPC reserves the right to dispatch the Goods by the most suitable form of transport and to pack the Goods in the most suitable manner.

### 3. TITLE:

- Property in the Goods shall pass to the Customer only upon FPC receiving payment for the Goods and all other moneys owing by the Customer to FPC, and until payment is received the Customer shall (unless instructed in writing to the contrary by FPC):
  - keep the Goods in a good and secure condition;
  - store the Goods so that they are clearly identifiable as Goods belonging to FPC;
  - keep the Goods fully insured to their full replacement value against all risks; and
  - not encumber the Goods in any way.
- The Customer agrees that a certificate signed by an Officer of FPC identifying Goods as "unpaid for" shall be conclusive evidence that the Goods have in fact not been paid for and of FPC's title to the Goods.

#### 4. PPSA:

- a) The Customer acknowledges that FPC holds a "security interest" in the Goods and any proceeds of the sale of the Goods pursuant to section 17 of the Personal Property Securities Act 1999 (PPSA) and that FPC may register a financing statement in respect of the Goods and any sale proceeds in accordance with the provisions of the PPSA.
- b) The Customer shall provide all information, execute or arrange for the execution of all documents, and do all other things that FPC may require to ensure that FPC has a perfected first ranking security interest in the Goods under the PPSA. The Customer shall immediately upon request by FPC, procure from any person considered by FPC to be relevant to its security position such agreements and waivers as FPC may at any time require.
- c) The Customer waives its rights to receive a verification statement in respect of any financing statement or financing change statement registered by FPC under the PPSA and agrees that as between FPC and the Customer, the Customer shall have no rights under or by reference to sections 114(1)(a), 116, 117(1)(c), 119, 120(2), 121, 125, 129, 131, 132, 133 and 134 of the PPSA and where FPC has rights in addition to those in Part 9 of the PPSA, those rights shall continue to apply.

#### 5. LOSS IN TRANSIT AND SHORT DELIVERY:

- a) If the Customer establishes to the satisfaction of FPC that Goods have been damaged, destroyed or otherwise lost in transit or short delivered (where FPC has agreed to deliver the Goods into the Customer's premises or to site or other location specified by the Customer), or were not handed over to the Customer or the Customer's carrier complete and without shortage (where the Goods are collected), FPC will at its discretion, replace the damaged, destroyed or missing Goods free of charge or credit the Customer with the value of them, provided that the Customer shall have given to FPC written notification (otherwise than on the carrier's delivery document) of such damage, destruction, loss or shortage as follows:
- i) Within seven days of delivery of the Goods in the case of damage or loss of some (but not all) of the Goods or shortage of Goods.
  - ii) Within 28 days of the dispatch of the Goods where all of the Goods are lost.
- b) FPC shall be permitted a reasonable opportunity to inspect any damaged Goods and to investigate any loss.
- c) The Customer's notice shall state whether any damaged Goods have been salvaged by the Customer and upon FPC replacing the Goods or crediting the Customer as above any salvaged Goods shall be available to and at the disposal of FPC. Failure by the Customer to state whether or not any Goods have been salvaged shall relieve FPC from all liability or obligation under this clause 5.

#### 6. DEFECTIVE GOODS:

- a) Without limiting the obligations of FPC at law:
- i) It is the responsibility of the Customer to inspect the Goods as soon as practicable after delivery having due regard to the nature of the Goods and their intended application.
  - ii) The Customer must give notice in writing to FPC of any Goods alleged by the Customer to be defective, within 30 days of delivery of the Goods (time being of the essence).
  - iii) The Customer shall not assert any claim that any of the Goods are defective after the Goods are used, sold, cut, processed or otherwise altered or if the Customer is in default of any of any of its obligations under these Terms and Conditions.
  - iv) In no case shall any claim exceed the invoice value of the Goods in respect of which that claim is made. Only one claim may be made with respect to any particular Goods and that claim must clearly identify the specific transaction number to which the allegedly defective Goods relate.
  - v) FPC reserves the right to inspect the Goods subject to any claim. Any Goods in the custody of FPC for investigation or repair shall be at the risk of the Customer and no liability shall attach to FPC its servants or agents for any damage occasioned to the Goods howsoever arising.
  - vi) Where FPC accepts a claim, FPC will at its discretion either replace the defective Goods free of charge (by delivering the Goods to the original delivery point) or credit the price of the defective Goods to the account of the Customer.

#### 7. PAYMENT:

- a) Subject to clause 7.b) below, the Customer shall pay FPC for Goods purchased and services rendered inclusive of freight, handling and other expenses without deduction or set off within 30 days of the date of invoice (time being of the essence).
- b) If at any time any amount is overdue, all amounts then outstanding shall become immediately due and payable.
- c) FPC accepts payment of accounts by MasterCard or Visa. No credit card transaction fees shall apply if the account is paid by credit card by the due date. The Customer shall pay a transaction fee of 2% if the account is paid by credit card after the due date.
- d) The Customer shall pay interest at the rate of 2% per month or part month calculated on a daily basis in respect of any amount which may be overdue from the due date for payment until paid in full and such amount, together with all interest, shall be recoverable from the Customer as a liquidated debt.
- e) The Customer shall pay all costs incurred by FPC in the collection of any amounts that may be overdue including the fees of any mercantile agent or solicitor engaged by FPC (which shall also bear interest as above).
- f) FPC reserves the right to vary the terms of payment and total value of credit allowed by notice in writing to the Customer at any time and to require payment in cash in full prior to delivery should the credit worthiness of the Customer at any time in FPC's opinion become unsatisfactory.

#### 8. GOODS AND SERVICES TAX:

All amounts specified in any quotation, invoice or statement are expressed to be exclusive of GST and GST shall be payable in addition to the amounts specified in accordance with the Goods and Services Tax Act 1985.

#### 9. DEFAULT:

If the Customer commits any default whether under these Terms and Conditions or any other contract between FPC and the Customer, FPC will be entitled to withhold further deliveries or cancel any contract without prejudice to any other rights or remedies that FPC may have in respect of such default.

#### 10. LIEN:

In addition to any lien to which FPC may by statute or otherwise be entitled, FPC shall be entitled to a general lien on all property or Goods belonging to the Customer in FPC's possession (even though such Goods or some of them may have been paid for) for any amounts owing to FPC by the Customer.

#### 11. SECURITY:

The Customer hereby charges in favour of FPC all the Customer's estate and interest in any real property that the Customer owns or in which the Customer has a beneficial interest with due payment to FPC of all amounts that are or may become payable by the Customer to FPC and the Customer irrevocably appoints each of FPC's Officers and FPC's solicitors as the Customer's attorney to execute in the Customer's name and on behalf of the Customer, a mortgage in respect of such property in favour of FPC even though the Customer may not have defaulted in carrying out their obligations.

#### 12. TOOLS, ETC. USED IN CONNECTION WITH ORDER:

All tools, gauges, jigs, drawings, plans, blue prints, specifications, check fixtures, screens, photographs, electronic or other images, stencils and similar items which are manufactured, paid for, supplied or used by FPC in connection with any order shall remain the property of FPC and may be used by FPC as it thinks fit and shall be treated as confidential by the Customer and shall not be reproduced, sold, loaned or otherwise disposed of by the Customer without the prior written consent of FPC.

#### 13. RETURNABLE MATERIALS:

Ownership of pallets, blocks, gluts, packing cases or other containers except cardboard cartons (Returnable Materials) remains with FPC. The Customer must return the Returnable Materials to FPC at the earliest opportunity. The Customer shall be responsible for the care and safety of the Returnable Materials whilst on the Customer's premises or job site or other location or in the Customer's possession or control. The cost of replacement or repair of any Returnable Materials lost or damaged whilst in the possession or control of the Customer shall be for the Customer's account.

#### 14. LIABILITY:

- a) Save for any warranties or conditions contained in these Terms and Conditions or otherwise conferred in writing by FPC on the Customer in relation to particular Goods sold by FPC, FPC makes no representation and gives no assurance, condition or warranty of any kind to the Customer (including any assurance, condition or warranty implied by law or custom to the extent that the assurance, condition or warranty can be excluded) in relation to the Goods and accepts no liability for any assurance, condition, warranty, representation, statement or term not expressly set out in these Terms and Conditions. The Customer specifically acknowledges that it is acquiring the Goods for business purposes and the provisions of the Consumer Guarantees Act 1993 are hereby excluded. The Customer will indemnify FPC against and from any and all claims, demands or proceedings to which FPC is joined by any third party concerning the Goods and/or any defective application of the Goods.
- b) Without limiting clause 14. a) above, no warranty is given or to be implied as to the life or wear of the Goods supplied or that they will be suitable for any particular purpose or for use under specific conditions, notwithstanding that such purposes or conditions may be known or made known to FPC. Whilst FPC manufactures its Goods in accordance with specific European and ISO manufacturing standards (Standards), which are available on request, it is the Customer's responsibility to ensure that the Goods are satisfactory for the Customer's requirements.
- c) The Standards shall form the sole specification for the Goods. In the event of there being any conflict between the Standards and any specification provided by the Customer, the Standards shall prevail unless otherwise specifically agreed in writing by FPC.
- d) All Goods are manufactured subject to manufacturing tolerances. FPC does not warrant that all Goods produced will comply exactly with the specification in every respect and the Customer agrees to accept the Goods provided that the variations from FPC's specification do not exceed reasonable commercial limits.
- e) If any model or sample of the Goods was shown to the Customer, such model or sample was shown to illustrate the general type and quality of the Goods and is not a representation that the Goods will conform exactly to the model or sample.
- f) Any description of Goods contained in any contract pursuant to these Terms and Conditions is given by way of identification only and use of such description shall not constitute a contract of sale by description.
- g) Notwithstanding anything else contained in these Terms and Conditions, to the maximum extent permitted by law, the liability of FPC in respect of any claim for loss, damage or injury arising from breach of any of FPC's contractual obligations, negligence or otherwise howsoever shall not in the aggregate exceed the price paid in respect of the Goods or services to which the claim relates and under no circumstances will FPC be liable for any loss of profits or any consequential, indirect or special loss, damage or injury of any kind whatsoever suffered by the Customer or its servants, agents and contractors.

#### 15. FORCE MAJEURE:

If FPC is unable to perform any obligation under these Terms and Conditions as a result of force majeure, FPC shall be excused performance, provided that FPC shall use its reasonable endeavours to remove such cause(s) of non-performance and shall resume performance without delay when such cause(s) are removed. For the purposes of these Terms and Conditions the term "force majeure" includes acts of God, strikes, lock-outs, fire, accident, lightning, earthquakes, storms, floods, explosion, war, acts of terrorism, machinery breakdown, difficulty in procuring suitable materials, Goods or substances required in the manufacture of the Goods and any other circumstances, whether similar or dissimilar, beyond the reasonable control of FPC.

#### 16. INTELLECTUAL PROPERTY:

The Customer warrants that any designs or materials furnished to FPC do not infringe the intellectual property rights of any third party and the Customer indemnifies FPC against all liability, loss, damages, penalties, costs and expenses suffered or incurred by FPC as a result of the use of such designs or materials which may infringe the intellectual property rights of any third party. The sale and purchase of the Goods does not confer on the Customer any license or rights in any intellectual property which is the property of FPC.

#### 17. ASSIGNMENT:

a) The Customer shall not be entitled to assign any of its rights or obligations under these Terms and Conditions or any contract between FPC and the Customer without the prior written consent of FPC. Any change in the effective control of the Customer shall be deemed to be an assignment for the purposes of this clause.

b) These Terms and Conditions and any contract between FPC and the Customer shall be binding on the personal representatives, successors and permitted assigns of each party.

#### 18. DISPUTES AND JURISDICTION:

a) These Terms and Conditions and any contract between FPC and the Customer shall be governed by the laws of New Zealand and the parties irrevocably submit to the jurisdiction of the courts of New Zealand.

b) The Customer agrees to pay a stakeholder, nominated by FPC, any amount certified by FPC as payable before the Customer becomes entitled to dispute whether that amount is payable. Such amount will be held on trust and invested until the dispute is resolved and all accretions shall be payable to the party entitled to such amount.

#### 19. ENFORCEMENT:

Failure by FPC to insist upon strict performance of any of these Terms and Conditions shall not be deemed a waiver thereof or of any rights FPC may have, and shall not constitute a waiver of any subsequent breach of any of these Terms and Conditions.

#### 20. ILLEGALITY OR INVALIDITY:

If any provision of any contract between FPC and the Customer shall be determined by any Court or tribunal to be illegal, invalid, void or voidable, the legality of the remainder of such contract shall not be affected and the illegal, void or voidable provision shall be deemed deleted from such contract and the remainder of the contract shall continue in full force and effect.

#### 21. WEBSITE:

FPC has made all reasonable efforts to ensure that all information provided on FPC's website is accurate at the time of inclusion but makes no representation or warranties, express or implied, except as imposed by law, regarding the information provided on the website, including any hypertext links or any other items used either directly or indirectly from the website and reserves the right to make changes or corrections at any time without notice. FPC takes no responsibility for and does not endorse, sponsor or recommend the contents, accuracy or performance of any linked sites. FPC accepts no responsibility for any inaccuracies or omissions in the website and any decisions based on information contained in the website are solely the responsibility of the Customer. FPC accepts no liability for any direct, indirect, special, consequential or other losses or damages arising out of access to, or the use of the website or any information contained in the website.

#### 22. NOTICES:

a) All notices, demands and other communications (Notices) relating to these Terms and Conditions and any contract between FPC and the Customer shall be given or served by:

- i) prepaid post to the address of the addressee stated in this document;
- ii) prepaid post to the registered address of the addressee;
- iii) facsimile to the facsimile number of the addressee stated in this document; or
- iv) email to the email address of the addressee stated by the Customer in this document, or to such other address, facsimile number or e-mail address as may be notified by the addressee in writing to the other party from time to time.

b) Any Notice shall be deemed to have been received by the addressee on the date of delivery or faxing, or when posted, on the third working day after posting.