

APPLICANT DETAILS

Sole Trader ☐Partnership ☐Limited Company ☐Trust ☐Other ☐

Legal Company Name or Surname (if Sole Trader):		
Full Christian Names:		Date of Birth:
Occupation:		
Partner Full Names:		Date of Birth:
Trade Name (if Any):		
Address:		Postal Address:
Length of time at Present Address:		Previous Address Details (if less than 2 years):
Years Owned/Rented:		
Approximate Value:		
Telephone Bus Hours:		A/Hours: Mobile:
Fax Number:		Email:
Contact Person for Accounts:		DDI:
Marketing Email Address:		

COMPANY DETAILS

Location and name of Registered Office:		Delivery Address/es (if different from Office):	
Describe Principal Activity of Business:			
Previous Trading Name:			
Company of Solicitors:		Acting Solicitor:	
Company of Accountants:		Acting Accountant:	
Bankers:		Branch:	
Date Incorporated:	Company Number:		Capital of Company:

COMPANY DETAILS (Cont'd)			
Directors/Company Sec. or Partners	Private Address	Ph.	Shares Held
Order Numbers Required: Yes ☐ No ☐		Projected Monthly Purchases: \$	
Key Customer Markets:			
Key Employee Contacts	Position	Ph.	Email
Have You or your Company had previous accounts with Shade Elements Limited or any associated Companies? Yes ☐ No ☐			
Trade References — excluding Credit Cards, Fuel Suppliers, Landlord, Power & Phone — 3 Required			
1.	Ph.	Email:	
2.	Ph.	Email:	
3.	Ph.	Email:	
I certify that the above information is true and correct and that I am authorised to make this application for credit. In accordance with the Privacy Act (1993) I authorise any person or company to give information as may be required in response to credit Inquiries. I have read and understand the GENERAL TERMS AND CONDITIONS OF TRADE (overleaf) of Shade Elements Limited which form part of, and are intended to be read in conjunction with this Credit Application and agree to be bound by these conditions.			
Signed:		Date:	
Full Name:		Position:	
Guarantor Details (If Required):			
Full Name:		Occupation:	
Address:			
Signed:		Date:	

IN CONSIDERATION of Shade Elements Limited and its successors and assigns ("the Seller") at the request of the Guarantor (as is now acknowledged) supplying and continuing to supply goods and/or services to

("The Customer")

I/WE UNCONDITIONALLY AND IRREVOCABLY:

1. **GUARANTEE** the due and punctual payment to the Seller of all moneys which are now owing to the Seller by the Customer and all further sums of money from time to time owing to the Seller by the Customer in respect of goods and services supplied or to be supplied by the Seller to the Customer or any other liability of the Customer to the Seller, and the due observance and performance by the Customer of all its obligations contained or implied in any contract with the Seller. If for any reason the Customer does not pay any amount owing to the Seller the Guarantor will immediately on demand pay the relevant amount to the Seller.
2. **HOLD HARMLESS AND INDEMNIFY** the Seller on demand as a separate obligation against any liability (including but not limited to damages costs losses and legal fees(as defined hereunder in paragraph b hereof)) incurred by or assessed against the Seller in connection with:
 - a) the supply of goods and/or services to the Customer; or
 - b) the recovery of moneys owing to the Seller by the Customer including the enforcement of this guarantee, and including but not limited to the Sellers nominees costs of collection and legal costs calculated on a solicitor and own client basis; or
 - c) moneys paid by the Seller with the Customer's consent in settlement of a dispute that arises or results from a dispute between, the Seller, the Customer, and a third party or any combination thereof, over the supply of goods and/or services by the Seller to the Customer.

I/WE FURTHER ACKNOWLEDGE AND AGREE THAT:

3. This Guarantee and Indemnity shall constitute an unconditional and continuing guarantee and indemnity and accordingly shall be irrevocable and remain in full force and effect until the whole of moneys owing to the Seller by the Customer and all obligations herein have been fully paid satisfied and performed.
4. No granting of credit, extension of further credit, or granting of time and no waiver, indulgence or neglect to sue on the Seller's part (whether in respect of the Customer or any one or more of any other guarantor(s) or otherwise) and no failure by any named guarantor to properly execute this Guarantee and Indemnity shall impair

or limit the liability under this Guarantee and Indemnity of any guarantor. Without affecting the Customer's obligations to the Seller, each guarantor shall be a principal debtor and liable to the Seller accordingly.

5. If any payment received or recovered by the Seller is avoided by law such payment shall be deemed not to have discharged the liability of the Guarantor, and the Guarantor and the seller shall each be restored to the position in which they would have been had no such payment been made.
6. This Guarantee and Indemnity shall bind each of the signatories notwithstanding that one or more of the persons named as a "Guarantor" may never execute this Guarantee and Indemnity.
7. The term "Guarantor" whenever used in this Guarantee and Indemnity shall, if there is more than one person named as guarantor, mean and refer to each of them individually and both of them together unless the context otherwise requires, and the obligations and agreements on the part of the guarantor contained in this guarantee and Indemnity shall bind them jointly and severally.
8. I/We have been advised to obtain independent legal advice before executing this Guarantee but have either waived or declined to take independent legal advice. I/we understand that I/we am/are liable for all amounts owing (both now and in the future) by the Customer to the Seller.
9. The above information is to be used by the Seller for all purposes in connection with the Seller considering this guarantee and the subsequent enforcement of the same.
10. I/we irrevocably authorise the Seller to obtain from any person or company any information which the Seller may require for credit reference purposes. I/We further irrevocably authorise the Seller to provide to any third party, in response to credit references and enquiries about me/us or by way of information exchange with credit reference agencies, details of this Guarantee and Indemnity and any subsequent dealings that I/we may have with the Seller as a result of this guarantee being actioned by the Seller.

GUARANTOR 1 Signed:	Present Address:
Full Name:	
Witness Signed:	Present Address:
Full Name:	Occupation:
EXECUTED as a Deed this day of 20____	
GUARANTOR 2 Signed:	Present Address:
Full Name:	
Witness Signed:	Present Address:
Full Name:	Occupation:
EXECUTED as a Deed this day of 20____	
Note: 1. If the Customer is a sole trader or partnership the guarantor(s) should be some other suitable person(s). 2. If the Customer is a club or incorporated society the guarantor(s) should be the president and secretary or other committee member.	WARNING: THIS IS AN IMPORTANT DOCUMENT YOU SHOULD SEE YOUR OWN LAWYER OR ADVISOR BEFORE SIGNING IT

Shade Elements Limited —

SHADE
ELEMENTS

Terms & Conditions of Trade

1. Definitions
1.1 "Seller" shall mean Shade Elements Limited and its successors and assigns.
1.2 "Customer" shall mean the Customer or any person acting on behalf of and with the authority of the Customer.
1.3 "Guarantor" means that person (or persons), or entity that agrees herein to be liable for the debts of the Customer on a principal debtor basis.
1.4 "Goods" shall have the same meaning as in section 119 of the Contract and Commercial Law Act 2017 and are goods supplied by the Seller to the Customer (and where the context so permits shall include any supply of Services as hereinafter defined).
1.5 "Services" shall mean all services supplied by the Seller to the Customer and includes any advice or recommendations (and where the context so permits shall include any supply of Goods as defined above).
1.6 "Price" shall mean the cost of the Goods as agreed between the Seller and the Customer subject to clause 4 of this contract.

2. Acceptance
2.1 Any instructions received by the Seller from the Customer for the supply of Goods and/or the Customer's acceptance of Goods supplied by the Seller shall constitute acceptance of the terms and conditions contained herein.
2.2 Where more than one Customer has entered into this agreement, the Customers shall be jointly and severally liable for all payments of the Price.
2.3 Upon acceptance of these terms and conditions by the Customer the terms and conditions are irrevocable and can only be rescinded in accordance with these terms and conditions or with the written consent of the manager of the Seller.
2.4 None of the Seller's agents or representatives are authorised to make any representations, statements, conditions or agreements not expressed by the manager of the Seller in writing nor is the Seller bound by any such unauthorised statements.
2.5 The parties agree that for the purposes of the Construction Contracts Act 2002 together with any amendments to the Construction Contracts Act 2022 this contract is not a commercial construction contract or a construction contract whether for a commercial or residential property or work and devise liability under this contract shall be in no way limited by any contract that the Customer may have entered into with a third party in relation to the supply of Goods and/or Services to that third party or the payment by the third party to the Customer of any monies whether by progress payments or otherwise.

3. Goods / Services
3.1 The Goods and/or Services are as described on the invoices, quotation, work authorisation or any other work commencement forms as provided by the Seller to the Customer.
3.2 Any credit limit approved by the Seller may be reviewed by the Seller from time to time at its sole discretion. The credit limit may be increased or reduced by the Seller following the review without the need to give notice to the customer for the increase or reduction.

4. Price And Payment
4.1 At the Seller's sole discretion the Price shall be either;
(a) as indicated on invoices provided by the Seller to the Customer in respect of Goods supplied; or
(b) the Seller's current Price, at the date of delivery of the Goods, according to the Seller's current Price list; or
(c) Seller's quoted Price (subject to clause 4.2) which shall be binding upon the Seller provided that the Customer shall accept in writing the Seller's quotation within thirty (30) days.
4.2 The Seller may by giving notice to the Customer (verbally or otherwise) at any time before delivery increase the Price of the Goods to reflect any variation from the plan of scheduled works or specifications beyond the reasonable control of the Seller which increase the cost of the Goods/Services by more than 10% of the quoted Price.
4.3 At the Seller's sole discretion a deposit may be required. The deposit amount or percentage of the Price will be stipulated at the time of the order of the Goods and shall become immediately due and payable.
4.4 Time for payment for the Goods shall be of the essence and will be stated on the invoice, quotation or any other order forms. If no time is stated then payment shall be on delivery of the Goods.
4.5 The Seller may withhold delivery of the Goods until the Customer has paid for them, in which event payment shall be made before the delivery date.
4.6 At the Seller's sole discretion, payment for approved Customer's shall be due on the twentieth (20th) of the month in which a statement is posted to the Customer's address or address for notices.
4.7 At the Seller's sole discretion, for certain approved Customers payment will be due seven (7) days following the date of the invoice.
4.8 Payment will be made by cash on delivery, or by cheque, or by bank cheque, or by direct credit, or by credit card, or by any other method as agreed to between the Customer and the Seller.
4.9 The Price shall be increased by the amount of any GST and other taxes and duties which may be applicable, except to the extent that such taxes are expressly included in any quotation given by the Seller.
4.10 The Seller will charge a 2.5% premium for all payments made by credit card or by contactless credit or debit card payment systems such as "Paywave".

5. Delivery Of Goods
5.1 Delivery of the Goods shall be made to the Customer's address. The Customer shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery.
5.2 The costs of carriage and any insurance which the Customer reasonably directs the Seller to incur, shall be reimbursed by the Customer (without any set-off or other withholding whatever) and shall be due on the date for payment of the Price. The carrier shall be deemed to be the Customer's agent.
5.3 The Seller may deliver the Goods by separate instalments (in accordance with the agreed delivery schedule). Each separate instalment shall be invoiced and paid for in accordance with the provisions in this contract of sale.
5.4 Delivery of the Goods to a third party nominated by the Customer is deemed to be delivery to the Customer for the purposes of this agreement.
5.5 The Customer shall take delivery of the Goods tendered notwithstanding that the quantity so delivered shall be either greater or less than the quantity purchased provided that;
(a) such discrepancy in quantity shall not exceed 5%, and
(b) the Price shall be adjusted pro rata to the discrepancy.
5.6 The failure of the Seller to deliver shall not entitle either party to treat this contract as repudiated.
5.7 The Seller shall not be liable for any loss or damage whatever due to failure by the Seller to deliver the Goods (or any of them) promptly or at all.

6. Risk
6.1 If the Seller retains title to the Goods nonetheless all risk for the Goods passes to the Customer on delivery.
6.2 If any of the Goods are damaged or destroyed prior to title to them passing to the Customer, the Seller is entitled, without prejudice to any of its other rights or remedies under these terms and conditions (including the right to receive payment of the balance of the Price for the Goods), to receive all insurance proceeds payable in respect of the Goods. This applies whether or not the Price has become payable under these terms and conditions. The production of these terms and conditions by the Seller is sufficient evidence of the Seller's rights to receive the insurance proceeds without the need for any person dealing with the Seller to make further enquiries.

7. Defects/Returns
7.1 The Customer shall inspect the Goods on delivery and shall within seven (7)

- days subject to any mandatory provisions under the Consumer Guarantees Act 1993 of delivery notify the Seller of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Customer shall afford the Seller an opportunity to inspect the Goods within a reasonable time following delivery if the Customer believes the Goods are defective in any way. If the Customer shall fail to comply with these provisions the Goods shall be conclusively presumed to be in accordance with the terms and conditions and free from any defect or damage.

7.2 For defective Goods, which the Seller has agreed in writing that the Customer is entitled to reject, the Seller's liability is limited to either (at the Seller's discretion) replacing the Goods or repairing the Goods provided that:
(a) the Customer has complied with the provisions of clause 7.1;
(b) the Goods are returned at the Customer's cost within fourteen (14) days of the delivery date;
(c) the Seller will not be liable for Goods which have not been stored or used in a proper manner;
(d) the Goods are returned in the condition in which they were delivered and with all packaging material, brochures and instruction material in as new condition as is reasonably possible in the circumstances.

7.3 The Seller may (in its discretion) accept the Goods for credit but this may incur a handling fee of 15% of the value of the returned Goods plus any freight or \$100.00 which ever is the greater of.

8. Warranty
8.1 For Goods not manufactured by the Seller, the warranty shall be the current warranty provided by the manufacturer of the Goods. The Seller shall not be bound by nor responsible for any term, condition, representation or warranty given by the manufacturer of the Goods.

9. Default & Consequences Of Default
9.1 Interest on overdue invoices shall accrue from the date when payment becomes due daily until the date of payment at a rate of 2.5% compounding per calendar month and shall accrue at such a rate after as well as before any judgement.
9.2 If the Customer defaults in payment of any invoice when due, the Customer shall indemnify the Seller from and against all of the Seller's costs and disbursements including on a solicitor and own client basis and in addition all of the Seller's nominees costs of collection.
9.3 Without prejudice to any other remedies the Seller may have, if at any time the Customer is in breach of any obligation (including those relating to payment), the Seller may suspend or terminate the supply of Goods to the Customer and any of its other obligations under the terms and conditions. The Seller will not be liable to the Customer for any loss or damage the Customer suffers because the Seller exercised its rights under this clause.
9.4 If any account remains unpaid at the end of the second month after supply of the Goods or Services the following shall apply: An immediate amount of the greater of \$20.00 or 10.00% of the amount overdue shall be levied for administration fees which sum shall become immediately due and payable in addition to the interest payable under clause 9.1 hereof.
9.5 In the event that:
(a) any money payable to the Seller becomes overdue, or in the Seller's opinion the Customer will be unable to meet its payments as they fall due, or;
(b) the Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors, or;
(c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer, then without prejudice to the Seller's other remedies at law:
(i) the Seller shall be entitled to cancel all or any part of any order of the Customer which remains unperformed in addition to and without prejudice to any other remedies; and
(ii) all amounts owing to the Seller shall, whether or not due for payment, immediately become due and payable.

10. Title
10.1 It is the intention of the Seller and agreed by the Customer that property in the Goods shall not pass until:
(a) The Customer has paid all amounts owing for the particular Goods, and
(b) The Customer has met all other obligations due by the Customer to the Seller in respect of all contracts between the Seller and the Customer, and that the Goods, or proceeds of the sale of the Goods, shall be kept separate until the Seller shall have received payment and all other obligations of the Customer are met.
10.2 Receipt by the Seller of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then the Seller's ownership of rights in respect of the Goods shall continue.
10.3 It is further agreed that:
(a) Until such time as ownership of the Goods shall pass from the Seller to the Customer the Seller may give notice in writing to the Customer to return the Goods or any of them to the Seller. Upon such notice the rights of the Customer to obtain ownership or any other interest in the Goods shall cease.
(b) If the Customer fails to return the Goods to the Seller then the Seller or the Seller's agent may enter upon and into land and premises owned, occupied or used by the Customer, or any premises as the invitee of the Customer, where the Goods are situated and take possession of the Goods, without being responsible for any damage thereby caused.

11. Personal Property Securities Act 1999
11.1 Upon assenting to these terms and conditions in writing the Customer acknowledges and agrees that:
(a) these terms and conditions constitute a security agreement for the purposes of the PPSA; and
(b) a security interest is taken in all Goods previously supplied by the Seller to the Customer (if any) and all Goods that will be supplied in the future by the Seller to the Customer during the continuance of the parties relationship.
11.2 The Customer undertakes to:
(a) sign any further documents and/or provide any further information, such information to be complete, accurate and up-to-date in all respects, which the Seller may reasonably require to register a financing statement or financing charge statement on the Personal Property Securities Register;
(b) indemnify, and upon demand reimburse, the Seller for all expenses incurred in registering a financing statement or financing charge statement on the Personal Property Securities Register or releasing any Goods charged thereby;
(c) not register a financing charge statement or a change demand without the prior written consent of the Seller;
(d) give the Seller not less than fourteen (14) days prior written notice of any proposed change in the Customer's name and/or any other change in the Customer's details (including but not limited to, changes in the Customer's address, facsimile number, or business practice); and
(e) immediately advise the Seller of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.
11.3 The Seller and the Customer agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these Terms and Conditions.
11.4 The Customer waives its rights as a debtor under sections 116, 120(2), 121, 125, 126, 127, 129, 131 and 132 of the PPSA.
11.5 Unless otherwise agreed to in writing by the Seller, the Customer waives its right to receive a verification statement in accordance with section 148 of the PPSA.
11.6 The Customer unconditionally ratifies any actions taken by the Seller under clauses 11.1 to 11.5, under and by virtue of the power of attorney given by the Customer to the Seller.

12. Security & Charge
12.1 Despite anything to the contrary contained herein or any other rights which the Seller may have however:
(a) Where the Customer and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being charged, both the Customer and/or the Guarantor agree to mortgage and/or charge all of their joint and/or several

- interest in the said land, realty or any other asset to the Seller or the Seller's nominee to secure all amounts and other monetary obligations payable under the terms and conditions. The Customer and/or the Guarantor acknowledge and agree that the Seller (or the Seller's nominee) shall be entitled to lodge where appropriate a caveat, which caveat shall be released once all payments and other monetary obligations payable hereunder have been met.

(b) Should the Seller elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Customer and/or Guarantor shall indemnify the Seller from and against all the Seller's costs and disbursements including legal costs on a solicitor and own client basis.

(c) To give effect to the provisions of clause [11, 12.1(a) to (b)] inclusive hereof the Customer and/or the Guarantor (if any) do hereby irrevocably nominate constitute and appoint the Seller or the Seller's nominee as the Customer's and/or Guarantor's true and lawful attorney to execute mortgages and charges (whether registrable or not) including such other terms and conditions as the Seller and/or the Seller's nominee shall think fit in his/her/its/their absolute discretion against the joint and/or several interest of the Customer and/or the Guarantor in any land, realty or asset in favour of the Seller and in the Customer's and/or Guarantor's name as may be necessary to secure the said Customer's and/or Guarantor's obligations and indebtedness to the Seller and further to do and perform all necessary and other acts including instituting any necessary legal proceedings, and further to execute all or any documents in the Seller's absolute discretion which may be necessary or advantageous to give effect to the provisions of this clause.

13. Intellectual property
13.1 Where the Seller has designed or drawn Goods for the Customer, then the copyright in those designs and drawings shall remain vested in the Seller, and shall only be used by the Customer at the Seller's discretion.
13.2 The Customer warrants that all designs or instructions to the Seller will not cause the Seller to infringe any patent, registered design or trademark in the execution of the Customer's order.

14. Cancellation
14.1 The Seller may cancel these terms and conditions or cancel delivery of Goods and Services at any time before the Goods are delivered by giving written notice. On giving such notice the Seller shall promptly repay to the Customer any sums paid in respect of the Price for those Goods. The Seller shall not be liable for any loss or damage whatsoever arising from such cancellation.
14.2 At the Seller's sole discretion the Customer may cancel delivery of Goods and/or Services. In the event that the Customer cancels delivery of Goods and/or Services the Customer shall be liable for any costs incurred by the Seller up to the time of cancellation.

15. Privacy Act 2020
15.1 The Customer and the Guarantor/s (if separate to the Customer) authorises the Seller to:
(a) collect, retain and use any information about the Customer, for the purpose of assessing the Customer's creditworthiness or marketing products and services; and
(b) to disclose information about the Customer, whether collected by the Seller from the Customer directly or obtained by the Seller from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Customer.
15.2 Where the Customer is a natural person the authorities under clause 15.1 are authorities or consents for the purposes of the Privacy Act 2020.
15.3 The Customer shall have the right to request the Seller for a copy of the information about the Customer retained by the Seller and the right to request the Seller to correct any incorrect information about the Customer held by the Seller.

16. Customer's Disclaimer
16.1 The Customer hereby disclaims any right to rescind, or cancel the contract or to sue for damages or to claim restitution arising out of any misrepresentation made to him by any servant or agent of the Seller and the Customer acknowledges that he buys the Goods relying solely upon his own skill and judgement.

18. Unpaid Seller's Rights To Dispose Of Goods
18.1 In the event that:
(a) the Seller retains possession or control of the Goods; and
(b) payment of the Price is due to the Seller; and
(c) the Seller has made demand in writing of the Customer for payment of the Price in terms of this contract; and
(d) the Seller has not received the Price of the Goods, then, whether the title in the Goods has passed to the Customer or has remained with the Seller, the Seller may dispose of the Goods and may claim from the Customer the loss to the Seller on such disposal.

19. Consumer Guarantees Act 1993
19.1 This agreement is subject to the provisions of the Consumer Guarantees Act 1993 in all cases except where the Customer is contracting within the terms of a trade/business (which cases are specifically excluded).

20. General
20.1 If any provision of these terms and conditions shall be invalid, void or illegal or unenforceable the validity existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
20.2 All Goods and Services supplied by the Seller are supplied subject to the laws of New Zealand and the Seller takes no responsibility for changes in the law that affect the Goods or Services supplied.
20.3 The Seller shall be under no liability whatsoever to the Customer for any indirect loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by the Seller of these terms and conditions.
20.4 In the event of any breach of this contract by the Seller the remedies of the Customer shall be limited to damages. Under no circumstances shall the liability of the Seller exceed the Price of the Goods.
20.5 Neither party shall be liable for any default due to any act of God, terrorism, war, strike, lock out, industrial action, flood, storm or other event beyond the reasonable control of either party.
20.6 The Customer shall not set off against the Price amounts due from the Seller.
20.7 The Seller may license or sub-contract all or any part of its rights and obligations without the Customer's consent.
20.8 The Seller reserves the right to review these terms and conditions at any time and from time to time. If, following any such review, there is to be any change in such terms and conditions, that change will take effect from the date on which the Seller notifies the Customer of such change.

Customer Full Name:	
Date:	
Signed:	