

APPLICATION FOR COMMERCIAL CREDIT
HUNTER DOUGLAS LIMITED (ABN 98 009 675 709)
POSTAL ADDRESS: PO Box 237, Rydalmere, New South Wales, 1701

This Account Application shall be in respect of HUNTER DOUGLAS LIMITED (ABN 98 009 675 709) and its associated and related companies (all of which are referred to as "HDL")

IF A COMPANY APPLICANT

Registered name of incorporated body "the Applicant")

(ACN/ABN

Trading name/Business Name (if any)..... Business Name Registration No: (if any)

Affiliated or parent company (if applicable).....

IF PARTNERSHIP/SOLE TRADER/TRUST (Delete as applicable)

Partnership/Proprietor/Trustee Name ("the Applicant")

Trading name/Business Name (if any)..... Business Name Registration No: (if any)

Previous Trading Name (if applicable)..... Name of Trust (if applicable):

ALL APPLICANTS PLEASE COMPLETE

Date Business Commenced/...../..... Australian Business Number (ABN

Nature of Business/Main Business Activity Number of Employees

Postal Address

Business Address..... Owned Buying Renting

..... Postcode

Telephone Number () After Hours ()

Business Facsimile (] Mobile phone

WEB Address: Email address

Landlord/Agent's Telephone Number ()

Name if less than 12 months – Previous Address Postcode

Contacts - Booking Officer/Authorised Officer Accounts Payable Officer

Has Applicant or any associated company or person traded with our companies or businesses in the past? YES NO

(If Yes) under what name and when?

Details of: (Please tick) Directors Partners Sole Trader

1. Name in Full Date of Birth

Position/Occupation..... Licence No

Residential Address..... Owned Buying Renting

..... Postcode

2. Name in Full Date of Birth

Position/Occupation..... Licence No

Residential Address..... Owned Buying Renting

..... Postcode

3. Name in Full Date of Birth

Position/Occupation..... Licence No

Residential Address..... Owned Buying Renting

..... Postcode

Bank Branch Account No

Name/Title of Account Contact Name Tel No. ()

Facility Details (eg. Overdraft)

Accountant/Auditor Telephone Number ()

Trade References (Major Suppliers)

1 Telephone No.(.....) Facsimile No.....
 2 Telephone No.(.....) Facsimile No.....
 3 Telephone No.(.....) Facsimile No.....
 4 Telephone No.(.....) Facsimile No.....

Anticipated Monthly Purchases

At any time has any Proprietor, Director, or Manager of the Applicant Customer been the subject of Bankruptcy proceedings or been associated as a Manager, Member, Director or Partner of a business which was the subject of a Scheme of Arrangement, Receivership, Voluntary Administration, Liquidation or to which an Administrator or Controller has been appointed?

YES NO

If Yes, please give details

The Applicant acknowledges that he/she has received a copy of the HDL Terms and Conditions of Sale prior to his/her signing this application.

The person(s) signing this Application hereby warrants that he/she has read and understands the nature and effect of the HDL Terms and Conditions and:-

- a) He/She/They have authority to sign on behalf of and to bind the Applicant;
- b) The information provided is true and correct in every detail;
- c) He/She/They agree(s) to provide such updated and regular financial and trading information as HDL may reasonably require from time to time;
- d) He/She/They irrevocably grant permission to HDL before, during or after the provision of credit to give and receive information about the Applicant to and from any Credit Reporting Agency, Credit Provider, Bank or Financial Institution or any other corporation, association or person in accordance with the Privacy Act, 1988 or otherwise. This information may concern the Applicant's Consumer Credit and/or Commercial Credit and trading arrangements, may consist of Credit Reports and other credit and trading information concerning the Applicant and its business and may be used to assess or review at any time this application or to collect any overdue payments and/or to provide credit references in accordance with the provisions of the Privacy Act, 1988 or otherwise.
- e) He/She/They hereby indemnify(ies) HDL in respect of any claims or actions arising out of the obtaining or providing of information concerning the Applicant.

HDL is committed to your privacy. We comply with the National Privacy Principles for the fair handling of personal information as set out in the Privacy Act, 1988. In accordance with those principles and HDL's Privacy Policy, persons will be given access to their personal information on request. We use the personal information collected to supply you with our products and/or services and for assessing Applications for Commercial Credit and managing accounts. This information may be disclosed to our related or associated companies, contractors, other credit providers whether or not your account is overdue and, if necessary, our Risk Insurers, debt collectors and Credit Reporting Agencies. If all the information requested is not provided we may not be able to consider any application made by you or to supply you with our goods and/or services. If you have any questions or concerns about our Privacy Policy, please direct your requests to the Privacy Officer at our above address.

Signed on behalf of the Applicant by Directors Partners Sole Trader

PLEASE ENSURE ALL PAGES ARE SIGNED WHERE INDICATED

X..... Signature Print Name and Title

Date:...../...../.....

X..... Signature Print Name and Title

Date:...../...../.....

X..... Signature Print Name and Title

Date:...../...../.....

X..... Signature Print Name and Title

Date:...../...../.....

OFFICE USE ONLY

Credit Manager's Comments:

Credit Controller's Signature: _____ Date: _____

Credit Manager's Signature: _____ Date: _____

Account Recommended: Yes No Max. Credit \$ _____ Terms: _____ Days: _____

DEED OF GUARANTEE, INDEMNITY AND CHARGE

TO: **HUNTER DOUGLAS LIMITED (ABN 98 009 675 709)** and its associated and related companies (all of which are referred to as "the Company")

In consideration of the Company providing or continuing to provide Goods or supplying credit accommodation to the Customer or not commencing or continuing legal action against the Customer at the request of the Guarantor and for the business purposes of the Customer, the Guarantor enters this Deed and agrees with the Company as follows:

Guarantee

1. To guarantee and be responsible for the payment of the Money Secured to the Company by the Customer.
2. This guarantee and indemnity is given for valuable consideration and is a continuing guarantee to the Company for the whole of the Money Secured or the Goods supplied by the Company to the Customer.
3. The Company may at any time or times at its discretion and without giving any notice whatsoever to the Guarantors refuse to provide further Goods to the Customer.
4. Where the Guarantor consists of more than one person, this Deed is enforceable against all persons signing as Guarantor and each Guarantor will be jointly and severally liable immediately on signing this Deed.
5. If it is intended that more than one person be a Guarantor, this Deed will remain enforceable against each person signing as Guarantor even if any person proposed or contemplated to sign this Deed does not in fact do so.
6. The Company may at any time release or discharge the Guarantor or any of the persons included as Guarantor from the obligations of this Deed or grant time to pay, accept a composition from or enter other arrangements with the Customer or any Guarantor without affecting the liability of any other Guarantor under this Deed except that any payment received by the Company under such composition or arrangement will operate as a discharge of liability to the extent of the payment.
7. Any payment made by or on behalf of the Customer which is later avoided by the application of any statutory provision shall be deemed not to discharge the Customer's indebtedness and in such any event the parties are to be restored to rights which each respectively would have had if the payments had not been made.
8. Where the Guarantor has the right to prove in any insolvency administration of the Customer, the Guarantor must do so and hold any dividends received on trust for the Company.
9. This Deed is a continuing guarantee and indemnity and will remain in force and effect until the whole of the guaranteed obligations have been satisfied or paid in full.

Indemnity

10. The Guarantor indemnifies the Company against any and all costs, damages, losses and expenses that may or have been sustained by the Company caused or contributed to by any act, omission or breach by the Customer arising out of or in connection with the supply of the Goods by the Company to the Customer or for the payment by the Customer to the Company of the Money Secured.

Charge

11. For the purpose of securing payment to the Company of the Money Secured, the Guarantor:
 - 11.1 Hereby charges all of its, his or her beneficial interest in real and personal property (including all property acquired after the date of this Deed) in favour of the Company whether or not a demand has been made on the Customer or the Guarantor;
 - 11.2 Agrees to deliver to the Company within seven (7) days of written demand a Memorandum of Mortgage in registrable form and that the Money Secured is payable on demand incorporating the covenants contained in Memorandum No. Q860000 registered at the Department of Lands, Land and Property Information NSW as amended to comply with and reflect any appropriate laws in the jurisdiction(s) where the Guarantor has any beneficial interest in real and personal property and as amended appropriately to comply with any formal requirements of registration; Authorises and consents to the Company taking all actions necessary to give effect to this security including the lodgment of a Caveat upon Title of the Guarantor's Real Property. The Guarantor hereby irrevocably appoints the Company and any person nominated by the Company severally the attorney of the Guarantor with power to execute, sign, seal and deliver (which delivery may be subject to such terms and conditions as the attorney thinks fit) such mortgage or other document to give effect to this security; and
 - 11.3 If the charge created by Clause 10.1 is or becomes void or unenforceable, it may be severed from this Deed without any effect on its validity and the Guarantor shall not be exonerated in whole or in part, nor shall the Company's right, remedies or recourse against the Guarantor be in any way prejudiced or adversely affected by such severance.
12. A Certificate signed by a Director, Secretary, Financial Controller or Credit Manager of the Company shall be prima facie evidence of the amount of the Money Secured owed by the Customer or Guarantor at that time.
13. The Guarantor acknowledges that the Company has afforded him, her or it full and unrestricted opportunity of seeking independent legal advice on the Guarantor's obligations under the Deed prior to the signing of this Deed of Guarantee and Indemnity.
14. The Guarantor acknowledges that the Guarantor has made his, her or its own enquiries of the Customer regarding the Customer's past and prospective dealings with the Company and is satisfied as to the extent of his, her or it's obligations arising from this Deed and that the Company is under no obligation to notify the Guarantor of any changes to its trading terms or dealings with the Customer even if these changes increase the Guarantor's liability under the Deed.
15. The Guarantor agrees that this Deed of Guarantee, Indemnity and Charge shall be construed according to the laws of the State or Territory as HDL may in its sole discretion determine. Proceedings by either HDL or the Guarantor may be instituted and/or continued in such State or Territory as HDL may in its sole discretion determine. Failing such determination the Guarantor consents to any proceedings being instituted and heard by any appropriate Court sitting in the State of New South Wales applying the laws of the State of New South Wales.
16. He/She/They irrevocably grant permission to the Company before, during or after the provision of credit to the Customer to give and receive information about the Guarantor to and from any Credit Reporting Agency, Credit Provider, Bank or Financial Institution or any other corporation, association or person in accordance with the Privacy Act, 1988 or otherwise. This information may concern the Guarantor's Consumer Credit and/or Commercial Credit and trading arrangements, may consist of Credit Reports and other credit and trading information concerning the Guarantor and their business and may be used to assess or review at any time this guarantee or to collect any overdue payments and/or to provide credit references in accordance with the provisions of the Privacy Act, 1988 or otherwise.

We are committed to your privacy. We comply with the National Privacy Principles for the fair handling of personal information as set out in the Privacy Act, 1988. In accordance with those principles and the Company's Privacy Policy, persons will be given access to their personal information on request. We use the personal information collected for the purpose of enabling us to supply you with our products and/or services and for assessing Applications for Commercial Credit and managing accounts. This information may be disclosed to our related or associated companies, contractors, other credit providers whether or not your account is overdue and, if necessary, our Risk Insurers, debt collectors and Credit Reporting Agencies. If all the information requested is not provided we may not be able to supply you with our goods and/or services and we may not be able to process any Application for Commercial Credit. If you have any questions or concerns about our Privacy Policy, please direct your requests to the Privacy Officer at our National Head Office address.

**THIS IS A LEGAL DOCUMENT AND IF YOU ARE UNSURE OF ITS MEANING
AND EFFECT YOU SHOULD SEEK LEGAL ADVICE**

Definitions and Interpretations

"Company" means HUNTER DOUGLAS LIMITED (ACN 009 675 709) and its associated and related companies and successors or assigns

"Customer" means the person or company set out in Item 1 of the Schedule.

"Guarantor" means the person or company set out in Item 2 of the Schedule or any other person or persons signing or purporting to sign this Deed as Guarantor and that person's personal representative.

"Goods" means all goods, produce, merchandise and services supplied or which may be supplied in the future at the Customer's request or credit extended by the Company to the Customer.

"Money Secured" means all monies now payable or which may become payable in the future or contingently by the Customer to the Company for any reason whether alone or jointly with another person including without limitation; money owed by the Customer for the supply of Goods; all money the Company pays or becomes liable to pay at the request of the Customer; all losses and expenses including legal costs on a solicitor/client basis however directly or indirectly arising from any dealing or default by the Customer in its dealings with the Company or by the Guarantor under this Deed; all the costs incurred by the Company for recovering monies under any related security.

"Deed" means this Deed of Guarantee, Indemnity and Charge.

In interpreting this Deed words incorporating the singular number denotes the plural and vice versa; any gender denotes the relevant gender; and a person denotes an individual, a body corporate, a partnership or any unincorporated association.

PLEASE ENSURE YOUR COMPANY SEAL DOES NOT APPEAR ON THIS DEED

SCHEDULE

Item 1: The Customer

..... (ABN

Item 2: The Guarantor

Name Address

Name Address

EXECUTED AS A DEED

SIGNED by

.....)
(Print Name of Guarantor))
of)
.....)
(Address of Guarantor) X.....)
(Signature of Guarantor)

Before Date signed:
(Signature of Witness)

.....
(Print Name of Witness)

of.....

.....
(Address of Witness)

SIGNED by

.....)
(Print Name of Guarantor))
of)
.....)
(Address of Guarantor) X.....)
(Signature of Guarantor)

Before Date signed:
(Signature of Witness)

.....
(Print Name of Witness)

of.....

.....
(Address of Witness)

THIS IS A LEGAL DOCUMENT AND IF YOU ARE UNSURE OF ITS MEANING AND EFFECT YOU SHOULD SEEK LEGAL ADVICE

HUNTER DOUGLAS LIMITED ("HDL") *

These are the entire **Terms and Conditions of Sale** for goods supplied by HDL on or after 22 August 2006 to customers within Australia or export customers outside Australia (the "**Customer**") and apply to the sale of: **Window Covering Finished Products, Window Covering Components, Architectural Products, Coil Coating Products and Home Improvement Products (the "goods")**. Except as otherwise expressly agreed upon in writing between a duly authorised officer of HDL and the Customer, these Terms and Conditions shall apply notwithstanding any provisions to the contrary which may appear on any order form or other document issued by the Customer.

GENERAL

1. No quotation by HDL shall constitute an offer.
2. All orders placed with HDL shall only be accepted subject to these Terms and Conditions. HDL may at any time, and from time to time alter these Terms and Conditions of Sale and such altered Terms and Conditions of Sale shall apply after notification by HDL to the Customer.
3. If a Customer cancels or alters any order or part order for the goods with special materials at any time after HDL has received the order then HDL reserves the right to charge to the Customer the costs of any special goods or materials already acquired for the order together with the cost of any labour and tooling expended to the date of such cancellation or alterations.
4. Any Goods and Services Tax ("**GST**"), Sales Tax or any other applicable tax or duty payable shall be paid or re-imbursed by the Customer to HDL on demand and the Customer shall indemnify and keep indemnified HDL in respect of all taxes and duties including GST arising out of any sale of goods or the subsequent use of goods after the sale to the Customer.
5. **SECURITY DEPOSIT:** In the event that HDL requires payment by the Customer of a security deposit ("**Deposit**") then the Customer must pay to HDL the amount of that Deposit at the time of the Customer's order. HDL shall hold the Deposit as a stakeholder and be entitled to deduct from the Deposit any amount payable by the Customer to HDL in respect of any act, omission or breach of these Terms and Conditions of Sale, by the Customer.

PRICES

6. All prices shall be those referred to in HDL's price lists and/or arrangements current at the date of invoice and prices shall be subject to change without notice.
7. Unless otherwise stated on a relevant price list, invoice or statement, prices are "ex-factory" and do not include the cost of delivery to the Customer.

EXCEPT THAT

- (a) **For Window Covering Components, and Home Improvement Products,** unless stated on a relevant price list, invoice or statement, prices include delivery to the customer's principal place of business in Australia.
- (b) **For Export Customers outside Australia** unless otherwise stated on a relevant Price List, invoice or statement, prices include delivery FCA ("**free carrier**") to the Carrier or another person (e.g. a freight

forwarder) named by the Customer at Sydney, New South Wales, Australia.

- (c) **For Architectural Products** unless otherwise stated on a relevant Price List, the invoice or statement, prices include delivery FIS in the metropolitan area of any Australian Capital City (excluding Hobart). Where a customer's nominated delivery destination is outside the metropolitan area of any Australian Capital City, HDL will deliver FOB to the Customer's nominated transport company or agent in the Australian Capital City nearest to the Customer's nominated delivery destination.

8. TERMS OF PAYMENT

- (a) The granting of credit to a Customer shall be at the absolute discretion of HDL and unless otherwise demanded by HDL the Customer shall make payment of all amounts payable within thirty (30) days after the end of the month of delivery.
- (b) Customers shall not be entitled to withhold payment or part payment of any account by reason of any account query, dispute or set off.
- (c) Customers having overdue accounts will be precluded from participating in any special deals, discounts, bonus payments, redemptions, rebates and all other incentive programs until their accounts are no longer overdue.

9. If the Customer fails to make payment in accordance with Clause 8, HDL shall be entitled to:

- (a) Require the payment of cash on delivery of any further goods;
- (b) Charge an interest charge at the rate of one point seven five percentum (1.75%) per month on a cumulative basis on all overdue amounts (including late payment charges and amounts other than the price) calculated on a day to day basis on any monies due but unpaid, such interest charge to be computed from the due date for payment AND the parties agree that such interest charge is not a penalty but is a true measure of damages incurred by HDL. Payments received from the Customer will be credited first against any interest charge and all such fees shall be payable on demand by HDL;
- (c) Claim from the Customer all costs, expenses and charges incurred on any account whatsoever including but not limited to any action taken by HDL to recover monies or goods due from the Customer including but not limited to any mercantile agents costs and

legal costs and disbursements on a solicitor-client basis; and

- (d) Cease any further deliveries to the Customer and to terminate immediately any agreement in relation to goods that have not been delivered.

DELIVERY

10. Any date or time quoted for delivery is an estimate only and HDL shall endeavour to effect delivery at the time or times required by the Customer but failure to do so shall not confer any right of cancellation or refusal of delivery on the Customer or render HDL liable for any loss or damages directly or indirectly sustained by the Customer as a result thereof.

11. The Customer shall not be relieved of any obligation to accept or pay for products by reason of any delay in delivery caused by any "force majeure" as described in Clause 25.

12A. Delivery to Australian Customers

HDL's obligation to deliver shall be discharged on arrival of the goods at the Customer's nominated delivery destination, nominated transport company, nominated agent or the address appearing on the invoice. The Customer shall unload the goods on delivery, provided that if the Customer is unable or unwilling to accept physical delivery of the goods when the goods are ready for delivery, HDL shall be entitled to charge a fee for any delay experienced or arrange for the storage of the goods at the risk and cost of the Customer including all transportation, storage and other consequential costs.

Delivery to Export Customers

- 12B. For export Customers outside Australia HDL shall deliver the goods into the custody of the carrier or another person (e.g. a freight forwarder) named by the Customer, at the named place or point in Sydney (e.g. transport terminal or other receiving point) on the date or within the period agreed for delivery and in the manner agreed or customary at such point. If no specific point has been agreed, and if there are several points available, HDL may select the point at the place of delivery which best suits its purpose. Failing precise instructions from the Customer, HDL may deliver the goods to the carrier in such a manner as the transport mode of that carrier and the quantity and/or nature of the goods may require. Delivery to the carrier is completed when the goods have been handed over to the carrier or to another person acting on its behalf.
13. HDL may, at its discretion, make and invoice partial deliveries and each partial delivery shall be a separate sale pursuant to these Terms and Conditions of Sale.

INSPECTION

14. The Customer shall examine the goods immediately after delivery and HDL shall not be liable for any misdelivery, shortage, defect or damage unless HDL receives details in writing within seven (7) days of the date of delivery of the goods. HDL and the Customer agree that the failure by the Customer to advise HDL in writing as referred to in this clause shall be deemed to be the Customer's acceptance of the goods as satisfactory in all respects and the Customer will have no further claim on HDL provided that for Export Customers outside Australia the Customer shall pay, unless otherwise agreed, the costs of pre-shipment inspection which the Customer requires except when mandated by the authorities of the country of export.

PROPERTY AND RISK

15. Notwithstanding delivery of the goods or their installation, property in the goods shall remain with HDL until the Customer has paid and discharged any and all other indebtedness to HDL on any account whatsoever, including all applicable GST and other taxes, levies and duties. Any payment made by or on behalf of a Customer which is later avoided by the application of any Statutory Provision shall be deemed not to discharge the Customer's indebtedness and, in such an event, the parties are to be restored to rights which each respectively would have had if the payment had not been made.
16. The risk in the goods shall pass to the Customer upon delivery as referred to in clause 12 to the Customer or his agent or to a transport company nominated by the Customer.
17. The Customer acknowledges that it is in possession of the goods solely as a bailee for HDL until payment as defined in clause 15 has been made in full to HDL and until such payment:
- (a) The Customer shall be fully responsible for any loss or damage to the goods whatsoever and howsoever caused following delivery;
- (b) The Customer shall store the goods separately from its own goods and those of any other party and in a manner which clearly identifies the goods, whether as separate chattels or as components, as the property of HDL; and
- (c) The Customer shall maintain records of goods owned by HDL identifying them as HDL's property, of the persons to whom the goods are sold or disposed to and of the payments made by such persons for such goods. The Customer shall allow HDL to inspect these records and the goods themselves on request by HDL.
18. The Customer hereby irrevocably grants to HDL, its agents and servants, an unrestricted right and licence, without notice to enter premises occupied by the Customer to identify and remove any of the goods in accordance with the Terms and Conditions of Sale without in any way being liable to the Customer or any person claiming through the customer. HDL shall have the right to sell or dispose of any such goods removed

or otherwise in its sole discretion and shall not be liable for any loss occasioned thereby.

19. HDL licenses the Customer to install the goods. If the products are affixed to other materials, the totality thereof shall be the sole and exclusive property of HDL until payment as defined in clause 15 has been made in full to HDL unless the other materials or part thereof are or is the property of a party or parties other than the Customer in which case the totality thereof shall be deemed to be owned as tenants in common with such other party or parties in shares corresponding to the respective amounts paid or payable by the Customer in respect of such other party or parties.
20. The Customer shall be at liberty to agree to sell the goods (independently or affixed to other materials) subject to the condition that, until payment has been made in accordance with clause 15, the Customer shall sell as an agent and bailee for HDL and that the entire proceeds from the sale thereof shall be held in a separate account on trust for HDL. Any sale shall be made on the basis that the Customer must ensure that the net proceeds retained on behalf of HDL after payment of GST in respect of each supply made on behalf of HDL of the goods is the same as HDL would have retained had the only relevant sale been the sale to the Customer. The Customer further agrees to indemnify HDL in respect of any loss suffered (including any penalties and interest payable) by HDL as a consequence of the Customer's failure to adequately provide for GST in respect of the resale. The Customer also agrees to issue a *tax invoice on behalf* of HDL and to provide HDL with a copy of the *tax invoice*.
21. The right to on-sell, deal or otherwise dispose of the goods in the normal course of trade may be revoked at any time by HDL and shall automatically cease if a Receiver is appointed over any of the assets on the undertaking of the Customer or if a winding up order is made against the Customer or if the Customer goes into voluntary liquidation (otherwise than for the purpose of reconstruction or amalgamation) or administration or calls a meeting of, or makes any arrangement or composition with, creditors or commits any act of bankruptcy or where the Customer is in default of any of its obligations to HDL in connection with these Terms and Conditions.

WARRANTY

22. Subject to payment in full being made as defined in clause 15, HDL shall use its best endeavours to pass on to the Customer the benefit of any warranties or guarantees it receives in respect of goods or parts thereof supplied to the Customer which are not of HDL's manufacture.

LIMITATION OF LIABILITY

23. These Terms and Conditions of Sale do not exclude, restrict or modify the application of any provisions of any Commonwealth, State or Territorial Law that cannot be excluded, restricted or modified.
24. **Sale to Non-Consumers**
- (a) (i) In the case of goods supplied by HDL to a Customer who is not a "consumer"

(as defined in the Australian *Trade Practices Act, 1974* as amended from time to time ("**the Act**")), if the goods do not correspond with the description of them on the invoice or are defective, then provided that the goods are preserved intact and made available for inspection by a representative of HDL and are returned to HDL in the same order and condition as that in which they were delivered, HDL shall at its option replace those goods or reimburse the Customer for the amount of the purchase price paid for them, but any claim in this respect must be made in writing to HDL within seven (7) days of the date of delivery of those goods.

- (ii) Should the Customer seek indemnity from HDL in respect of any claim by a consumer on the Customer as a result of a breach of condition or warranty implied by the Act in a contract for the supply of goods by the Customer to that consumer, sub-paragraph (i) will not apply and in respect of goods that are of a kind ordinarily acquired for personal, domestic or household use or consumption ("**consumer goods**") and HDL's liability is limited to indemnifying the Customer in accordance with the Act, limited to a liability to pay to the Customer an amount equal to the cost of replacing the goods or the cost of obtaining equivalent goods or the cost of having the goods repaired, whichever is the lesser amount.
- (iii) For the supply of goods involving Coil Coating Products to the Customer, HDL's maximum liability under or in connection with these Terms and Conditions of Sale to the Customer and any claim by a consumer on the Customer will not exceed the total of HDL's charges as stated in HDL's invoice in relation to the supply of those goods.

(b) Sales to Consumers

In the case of goods supplied by HDL to a Customer who is a consumer, to the extent that the goods are not consumer goods, the liability of HDL to the Customer for breach of any warranty or condition (other than a warranty or condition implied by section 69 of the Act) or for breach of any duty of care shall in all cases be limited, at the option of HDL, to any one or more of the replacement of the goods or the supply of equivalent goods, the repair of the goods or acquiring equivalent goods or the payment of the cost of having the product repaired.

- (c) Except for those conditions and warranties implied by the Act or other sale of goods or consumer protection legislation which may not be excluded, the Customer agrees that:
- (i) It has not relied on any inducement, representation or statement made by or on behalf of HDL in purchasing the goods and there are no implied conditions or warranties herein and no collateral contracts in connection herewith (except such as may be in writing and signed by a duly authorised representative of HDL); and
- (ii) This clause sets out the entire liability of HDL in respect of its liability under the Act or otherwise in respect of liabilities to a consumer for a breach of a

condition or warranty with respect to the sale of goods or goods. In no circumstances will HDL incur any liability in respect of or arising out of or in connection with any special, consequential, direct or indirect loss, damage, cost, expense, harm or injury suffered or incurred by the Customer.

FORCE MAJEURE

25. HDL shall not be liable for any failure or delay to supply or deliver the goods where such failure or delay is wholly or partly due to any cause or circumstance whatsoever outside the reasonable control of HDL including, but not limited to, war, strikes, lockouts, industrial disputes or unrest, government restrictions or intervention, transport delays, fire, act of God, breakdown of plant, shortage of supplies or labour, storm or tempest, theft, vandalism, riots, civil commotions or accidents of any kind.

TERMINATION

26. If the Customer fails to comply with any of these Terms and Conditions or being a natural person or persons commits any act of bankruptcy, or being a corporation passes a resolution for winding up or liquidation (other than for the purposes of reorganisation or reconstruction) or administration or enters into any composition or arrangement with creditors of if a receiver or manager or administrator or controller is appointed for any property or assets of the Customer or becomes liable to be wound up by reason of insolvency or if any petition is presented for its winding up, or if a liquidator or provisional liquidator or administrator is appointed, HDL may, in addition to exercising all or any of its rights against the Customer, immediately suspend any further deliveries and immediately recover possession of any goods not paid for in accordance with these Terms and Conditions.

COURTESY RETURNS

27. Other than in respect of HDL's obligations pursuant to Clause 24, HDL shall not be liable to accept any returned goods, provided that such goods shall only be accepted:
- for credit;
 - with the prior written approval of a duly authorised representative of HDL;
 - only if approval is sought within seven (7) days of delivery of the products to the Customer (and the Invoice Number is quoted by the Customer when requesting the return); and
 - only if the goods are found to be in the same condition as at the time of delivery to the Customer and in unsoiled packaging ready for immediate resale when examined on their return to HDL.

No returns of the goods or cut-to-measure goods will be accepted.

Goods returned for credit pursuant to this clause will be subject to an administration charge equivalent to fifteen percent (15%) of the invoiced value of the returned products **plus GST and transportation and handling costs and expenses** but if that

amount would be less than fifty dollars (\$50.00) (excluding GST), then a minimum charge of fifty dollars (\$50.00) plus GST shall apply instead.

SUPPLY

28. HDL reserves the right to decline any order for products when the size of the order or the requested delivery date inhibits or prejudices HDL's ability to fulfil its contractual commitments or other commitments to its licensees, other customers or any other person or corporation.

GOVERNING LAW

29. The Customer agrees that these Terms and Conditions of Sale shall be construed according to the laws of the State or Territory of a Country as HDL may in its sole discretion determine. Proceedings by either HDL or the Customer may be instituted and/or continued in such State or Territory of a Country as HDL may in its sole discretion determine. Failing such determination the Customer consents to any proceedings being instituted and heard by any appropriate Court sitting in the State of New South Wales in Australia applying the laws of the State of New South Wales in Australia.

SERVICE OF DOCUMENTS

30. The Customer agrees that service of any notices or Court documents may be effected by forwarding the notice by pre-paid post or facsimile to the last known address or facsimile number of the Customer.

STATEMENT OF DEBT

31. A certificate signed by a Director, Secretary, Financial Controller or Credit Manager of HDL shall be prima facie evidence of the amount of indebtedness of the Customer to HDL at that time.

INTERPRETATION

32. If any matter, thing, act or omission arising or occurring under or pursuant to these terms and conditions constitutes a *taxable supply* then the party making the supply shall have the right to recover any GST payable in respect of that supply from the recipient of the supply in addition to any other amounts that it has a right to receive in respect of the supply provided that the party making the supply gives to the recipient of the supply a *tax invoice*.
33. An italicised term or expression has the same meaning in these terms and conditions as it has in the New Tax System (Goods and Services Tax) Act 1999.
34. A reference to the "GST" is a reference to the tax imposed from time to time by any one or more of the following Acts, A new Tax System (Goods and Services Tax Imposition - Customs) Act 1999, A New Tax System (Goods and Services Tax Imposition - Excise) Act 1999 and A New Tax System (Goods and Services Tax Imposition - General) Act 1999.
35. Where the context permits, a reference to a party includes the representative member of any GST group to which that party belongs.

FOR EXPORT CUSTOMERS OUTSIDE AUSTRALIA

The following Terms and Conditions (36-47) are applicable only to Export Customers outside Australia

Licences, Authorisations and Formalities for Exportation

36. HDL shall obtain at its own risk and expense any export licence or other official authorisation and carry out all customs formalities necessary for the exportation of the goods.

Contract of Carriage and Insurance

37. HDL shall have no obligation to contract for carriage or insurance.

HDL's Obligations for Costs Relating to the Goods

38. Subject to Clause 45 HDL shall:
- pay all costs relating to the goods until such time as they have been delivered to the carrier in accordance with Clause 12A; and
 - pay the costs of customs formalities as well as all duties, taxes and other official charges (if any) payable upon exportation.

Proof of Delivery, Transport Document or Equivalent Electronic Message

39. HDL shall provide the Customer at HDL's expense, if requested, with the usual document in proof of delivery of the goods in accordance with Clause 12B. Unless that document is the transport document, HDL shall render the Customer, at the latter's request, risk and expense, every assistance in obtaining a transport document for the contract of carriage (for example, a negotiable bill of lading, a non-negotiable sea waybill, an inland waterway document, an air waybill, a railway consignment note, a road consignment note, or a multimode transport document). Where HDL and the Customer have agreed to communicate electronically, the transport document for the contract of carriage may be replaced by an equivalent electronic data interchange (EDI) message.

Checking – Packaging – Marketing

40. HDL shall pay the costs of those checking operations (such as checking operations, checking quality, measuring, weighing, counting) which are necessary for the purpose of delivering the goods to the carrier. Unless otherwise stated on a relevant Price List, the invoice or statement, HDL shall provide at its own expense, packaging which is required for the transport of the goods, to the extent that the circumstances relating to the transport (e.g. Modalities, destination) are made known to HDL before the contract of sale is concluded. Packaging is to be marked appropriately.

Other Obligations of HDL for the Contract of Carriage

41. HDL shall render the Customer at the latter's request, risk and expense, every assistance in obtaining any documents or equivalent electronic messages (other than those mentioned in Clause 39) issued or

transmitted in the country of shipment and/or of origin which the Customer may require for the importation of the goods and, where necessary, for their transit through another country. HDL shall provide the Customer, upon request, with the necessary information for procuring insurance or other contracts of indemnity.

the goods should be delivered to the carrier.

Licences, Authorisation and Formalities for Importation

42. The Customer shall obtain at its own risk and expense any import licence or other official authorisation and carry out all customs formalities for the importation of the goods and, where necessary, for their transit through another country.

Contract of Carriage

43. The Customer shall contract at its own expense for the carriage of the goods from the named place at Sydney.

Taking Delivery

44. The Customer shall take delivery of the goods in accordance with Clause 12A.

Transfer of Risks

45. HDL shall be liable for any physical damage to the goods up until the time that they have been delivered in accordance with Clause 12B. The Customer shall be liable for any loss or damage to the goods from the time that they have been delivered to the carrier in accordance with Clause 12B. Should the Customer fail to give notice in accordance with Clause 47 or should the carrier named by the Customer fail to take the goods into his charge, the Customer shall bear all risks of loss of or damage to the goods from the date or the expiry date of any period stipulated for delivery provided, however, that the goods have been duly appropriated to the contract, that is to say, clearly set aside or otherwise identified as the contract goods.

Customer's Obligation for Costs Relating to the Goods

46. The Customer shall pay all costs relating to the goods from the time they have been delivered in accordance with Clause 12B. The Customer shall pay any additional costs incurred, either because it fails to name the carrier, or the carrier named by the Customer fails to take the goods into its charge at the agreed time, or because the Customer has failed to give appropriate notice in accordance with Clause 47 provided, however, that the goods have been duly appropriated to the contract, that is to say, clearly set aside or otherwise identified as the contract goods. The Customer shall pay all duties, taxes and other official charges as well as the costs of carrying out customs formalities payable upon importation of the goods and, where necessary, for their transit through another country.

Notice to HDL

47. The Customer shall give HDL sufficient notice of the name of the carrier and, where necessary, specify the mode of transport, as well as the date or period for delivery of the goods to it and, as the case may be, the point within the place where