APPLICATION FOR CREDIT

Terms and Conditions of Supply on Credit

1. These Terms will apply if Bunnings accepts an Application. The person named in the Application is the Account Holder for the purposes of these Terms.

2. All Goods supplied by Bunnings to the Account Holder on credit are supplied on these Terms, Bunnings' Trade Terms and Conditions of Sale, Bunnings' Frame and Truss Sales Terms and Conditions (where applicable), and any other terms agreed to in writing between the parties, as applicable, unless Bunnings otherwise notifies in writing under clause 35.

Conditions of use for PowerPass

3. The Account Holder may authorise Bunnings, if it agrees, to issue additional PowerPass cards by nominating an Authorised User of each additional PowerPass card. Additional PowerPass requests must be made to Bunnings by email to PowerPass@bunnings.com.au or through the online portal and set out the nominated Authorised User's full name.

4. To obtain the supply of Goods on credit, the Account Holder or an Authorised User, must use:
    a. an official company or business purchase order;
    b. a PowerPass card; or
    c. the PowerPass App.

    Bunnings cannot accept a PowerPass in any other form, including photographs or photocopies, or via third party applications.

5. The Account Holder or Authorised User must choose a 4-digit PIN (personal identification number) which must remain secure and the PowerPass can only be used in making purchases by using the PIN chosen in respect of that PowerPass. This is a security measure aimed at preventing unauthorised use of the PowerPass.

6. Pursuant to clause 9 of these Terms, the Account Holder will be liable for failure to maintain reasonable security measures in relation to the PowerPass Account, including but not limited to keeping the PIN confidential.

7. The PowerPass Account is for use with the Account Holder's business' purpose and must not be used for personal purchases.

8. Where Goods are subject to a temporary price reduction or a price match in accordance with Bunnings' Price Policy, which results in a price equal to or lower than the PowerPass price applicable to the Account Holder, no further discount applies.

9. The Account Holder is liable for all transactions using the PowerPass Account, including transactions using a Temporary PowerPass Facility and transactions carried out using a PowerPass via the PowerPass App.

10. The Account Holder is also liable to Bunnings in respect of all transactions and must bear any other losses that are caused by any usage of a PowerPass, even if such usage is not authorised by the Account Holder in circumstances where the usage has occurred because the Account Holder or an Authorised User has enabled or allowed such usage to occur, unless;
    a. unauthorised usage is caused by Bunnings or a Bunnings employee; or
    b. unauthorised usage occurs after the Account Holder has reported to Bunnings, either by email or by way of online access, that the PowerPass has been used without authority.

11. The PowerPass card holder name must match original forms of photo identification. Bunnings cannot accept photographs or photocopies of identification.

12. All PowerPass cards are the property of Bunnings and must be returned to Bunnings on request. Report immediately any lost, stolen or not required PowerPass cards or any unauthorised or potentially unauthorised use of the PowerPass and request the cancellation of the PowerPass by phoning 1800 980 050 (24hrs) or immediately cancel the PowerPass through online access. Please note that if a PowerPass App has been activated for a PowerPass then it remains active until the PowerPass account to which it has been registered is cancelled.

Supply of goods on credit

13. Bunnings may refuse to supply Goods to the Account Holder on credit where:
    a. the Goods are unavailable for any reason;
    b. a Non-Complying Order is received; or
    c. the Account Holder has defaulted under these Terms and that default has not been remedied by the Account Holder or waived by Bunnings.

14. Subject to clause 15, it is acknowledged that the Account Holder is responsible for any Moneys owed to Bunnings with respect to the PowerPass Account, including under any circumstances where the Credit Limit is exceeded.

15. The debit balance of the PowerPass Account must not at any time exceed the Credit Limit. If the debit balance of the Account does not at any time exceed the Credit Limit, the Account Holder remains liable to pay for all Goods supplied by Bunnings on credit.

16. To the extent permissible by law, Bunnings may vary or cancel the Credit Limit, where reasonably necessary for legitimate business purposes, including but not limited:
    a. to manage risks including credit risk, fraud, operational or regulatory risk;
    b. to correct any error, omission, inconsistency or ambiguity; or
    c. where a Default Event occurs.

    Should the Account Holder not agree, the Account Holder may terminate the account upon repayment of any outstanding Moneys owed to Bunnings.

17. Payment for all Goods must be made by the Due Date for the relevant Goods despite the date on which the Account Holder receives any invoice or statement in respect of Goods or any dispute in respect of the Goods. In respect of any Goods which are not paid for by the Due Date, interest will accrue in accordance with clause 18 from the day after the Due Date. In the case of a Commercial PowerPass Account, to avoid a Default Event, payment of the Monthly Minimum Payment must be made by the Due Date each month.

18. A Default Event occurs if:
    a. in the case of a 30 Day Commercial Credit Account, any Moneys are unpaid after the Due Date, or in the case of a Commercial PowerPass Account, a Monthly Minimum Payment remains unpaid after the Due Date, and in Bunnings' reasonable opinion, the Moneys will not be paid;
    b. the Account Holder is unable to pay its debts as they fall due;
    c. the Account Holder ceases or suspends conduct of its business, or threatens to do so;
    d. the Account Holder's PowerPass account is inactive for a period of 24 consecutive months;
    e. the Account Holder does anything which, in Bunnings' reasonable opinion, would bring Bunnings into disrepute, contravenes Bunnings' Community Standards, or demonstrates threatening, sexual or other harassment, or any other anti-social behaviour towards Bunnings team members;
    f. Bunnings, acting reasonably, determines that the Account Holder's creditworthiness has materially deteriorated;

g. an administrator, liquidator, provisional liquidator, receiver and/or manager, restructuring practitioner, or any other form of insolvency administrator or controller is appointed to the Account Holder, or over all or part of the Account Holder's assets;
h. if the Account Holder is an individual, the Account Holder goes into bankruptcy, dies, or commits any act of bankruptcy; or
i. the Account Holder is a partnership, and the partnership is dissolved.

19. If a Default Event occurs, which is not capable of being remedied or is capable of being remedied, but is not remedied by the Account Holder within 14 days taking into account Bunnings' legitimate business interests then, to the extent permissible by law, Bunnings may by notice to the Account Holder:
    a. suspend or terminate the supply of Goods on credit;
    b. require that all unpaid Moneys become immediately due and payable;
    c. exercise its rights to in respect of the Goods under clause 23; and/or
    d. the Account Holder is liable to pay to Bunnings and Bunnings may recover in full from the Account Holder a Default Fee, such Default Fee being an amount that is calculated at a rate up to 12% of the current debit balance of the Account as at the time of the Default Event but the Default Fee may not exceed $750.00. The Default Fee is to meet the genuine and legitimate expenses and costs incurred by Bunnings as a result of the Default Event, including by Bunnings exercising or enforcing or seeking to exercise or enforce a right under these Terms. Such Default Fee may be collected by Bunnings as a liquidated debt;
    e. in addition to the Default Fee, the Account Holder is liable to pay to Bunnings and Bunnings may recover in full from the Account Holder all legal cost and disbursements on a full indemnity basis incurred by Bunnings arising from or as a result of Bunnings exercising or enforcing or seeking to exercise or enforce a right under these Terms.

20. Interest accrues from day to day on the balance of overdue Moneys at the Rate during the period the overdue Moneys are unpaid. Interest will be computed on a daily basis for actual days elapsed and will be compounded on the last day of each calendar month.

21. In addition to any Moneys payable under clause 19 of these Terms, the Account Holder is liable to pay Bunnings, all reasonable costs, expenses and disbursements incurred and/or payable by Bunnings associated with the PowerPass Account and these Terms (including debt collection agency fees and commissions and all legal costs on a full indemnity basis) arising from or as a result of a Default Event, including in collecting or attempting to collect Moneys. Such costs, expenses and disbursements may be collected by Bunnings as a liquidated debt.

22. Bunnings may apply payments received from the Account Holder in respect of the Moneys firstly to any costs, expenses and disbursements, then to interest and then to the balance of the Moneys owing.

23. Any claim by the Account Holder that any Goods invoiced by Bunnings have not been delivered to or received by the Account Holder must be sent in writing by the Account Holder to Bunnings by the last business day of the second month following the month that the Goods were invoiced, failing which the Account Holder will be deemed to have received delivery of the Goods.

24. The Account Holder is not entitled to set-off any amounts against any Moneys owed by the Account Holder to Bunnings, unless in exceptional circumstances, Bunnings may at any time set-off amounts owed by Bunnings to the Account Holder against any Moneys owed by the Account Holder to Bunnings.

25. Subject to clause 27, the Account Holder must:
    a. inspect the Goods delivered immediately upon delivery and to carry out any tests that a prudent person would carry out; and
    b. give written notice to Bunnings of any alleged irregularities in quantity or description or any faults or defects in respect of any Goods as soon as practicable after delivery.

26. If no notice is given by the Account Holder to Bunnings in accordance with clause 25, the Account Holder shall be deemed to have accepted the Goods and, subject to clauses 38 and 41, the Account Holder shall lose the right to reject the Goods or claim any remedy whatsoever (including damages) against Bunnings.

27. To the extent permitted by law, including the Australian Consumer Law, Bunnings' liability to the Account Holder with respect to the Goods will, in the case of goods, be limited to the replacement or repair of the goods or payment of the cost of the replacement or repair of the goods or in the case of services, the re-supply of those services or the payment of the cost of the re-supply of those services, in each case, as Bunnings may elect

28. Bunnings may from time to time require further security as a condition of continuing to supply Goods on credit. For the purposes of this clause "security" includes a Guarantee, mortgage or charge granted by any person nominated by Bunnings.

29. Until Goods supplied on credit are paid for in full:
    a. the ownership of and title to the Goods remains at all times with Bunnings;
    b. the Account Holder:
        i. holds the Goods as Bunnings' fiduciary agent and bailee;
        ii. must ensure that any third party the Account Holder deals with is aware that the Account Holder is not the owner of the Goods and must not allow any plates or marks to be placed on the Goods that are inconsistent with Bunnings' ownership;
        iii. must insure the Goods;
        iv. must permit Bunnings to reasonable access to the Account Holder's premises at an agreed time to inspect the Goods; and
        v. may sell the Goods as agent for Bunnings;
    c. give written notice to Bunnings of any alleged irregularities in quantity or description or for the purposes of the PPSA, it is the intention of the parties by this clause 13 that there is created for the benefit of Bunnings a Purchase Monies Security Interest in the Goods; and
    d. give written notice to Bunnings of any alleged irregularities in quantity or description or the Account Holder agrees that Bunnings may register any personal property security interest created by these Terms on the Personal Property Securities Register and the Applicant waives its rights to receive a verification statement (as that term is defined in the PPSA) in respect of any financing statement or financing change statement (as those terms are defined in the PPSA) registered by Bunnings in respect of any personal property of the Buyer. The parties agree that, insofar as the provision of Chapter 4 of the PPSA are for the benefit of the Applicant or place an obligation on Bunnings, those provisions will apply only to the extent that they cannot be contracted out of or to the extent that Bunnings otherwise agrees in writing; and
    e. if a Default Event occurs, Bunnings is entitled to, at its discretion:
        i. by its servants or agents enter into the Account Holder's premises and retake possession of the Goods and sell them; or
        ii. seek and sue for recovery of the Moneys owing in respect of the Goods.

30. Despite clause 29, risk in any Goods supplied on credit passes to the Account Holder on delivery of the Goods.

31. The Account Holder agrees to hereby charge, as beneficial owner and as trustee of any Trust, in favour of Bunnings, all of the Account Holder's right, title and interest in land (held now or in the future, wherever located) to secure repayment of all Moneys owed to Bunnings. The Account Holder acknowledges that Bunnings may register a caveat over the Account Holder's land in respect of this charge. The Account Holder agrees that upon request by Bunnings, the Account Holder will execute and give to Bunnings a mortgage in registrable form in favour of Bunnings over the Account Holder's land and by reason of this Agreement to give a mortgage in favour of Bunnings, the Account Holder acknowledges that Bunnings is an equitable mortgagee in respect of the Account Holder's land.

32. If the Account Holder agrees to these Terms in its capacity as the trustee of any Trust:
    a. it is bound by these Terms as a trustee of any Trust; and
    b. warrants that it is a proper exercise of the Account Holder's authority and power under the Trust instrument and at law to trade with Bunnings.

33. The Account Holder (where a corporation) must no later than 14 days after any change of its ownership, shareholding, effective control or directors notify Bunnings of the change to enable Bunnings, acting reasonably, to consider whether there has been a material change in the credit worthiness of the Account Holder.

34. Bunnings is a good corporate citizen and its policy is to work with and assist Account Holders who are in financial hardship. As far as is reasonable, Bunnings is prepared to consider any Special Hardship Application made by the Account Holder, but Bunnings is not bound or required to agree to any request made by the Account Holder under any Special Hardship Application.

35. These Terms may be varied by Bunnings at any time and from time to time:
    a. with immediate effect by Bunnings giving notice of the changed terms and conditions to the Account Holder. If the Account Holder purchases Goods on credit after the notification of such changes those purchases are subject to those changes; and
    b. otherwise, on providing 30 days' prior notice to the Account Holder.

36. Notice of any change to these Terms in accordance with clause 29 may be given by email or post utilising the details on the Account Holder's PowerPass account.

37. If the Account Holder determines that any proposed changes notified in accordance with clause 29 will have a detrimental impact on the Account Holder, it may terminate the Account and these Terms by providing notice to Bunnings prior to the date the proposed change will take effect. Any termination will not release either party from its obligations under these Terms arising at any time up to and including the date the Termination takes effect including, in the case of the Account Holder, its obligation to pay the Moneys.

38. These Terms prevail to the extent of any inconsistency with other terms and conditions relating to the supply of Goods by Bunnings.

39. These Terms and the Application incorporating them will be governed by and construed in accordance with the laws of the State or Territory in which Goods are supplied. The Account Holder submits to the non-exclusive jurisdiction of the courts in the Central Business District of the capital city of any State or Territory of Australia or the Commonwealth of Australia elected by Bunnings.

40. A signed and dated certificate by any Director, Secretary, Financial Controller, Credit Manager or Recoveries Officer of Bunnings shall be prima facie evidence of the Moneys owing or of any other matter or fact as at the date of the certificate.

41. If any part of these Terms is or becomes void or unenforceable that part is severed so that all parts which are not void or unenforceable remain in full force and effect and are unaffected by the severance.

42. Bunnings' failure to exercise any right under these Terms or failure to insist on strict performance of any part of these Terms does not operate as a waiver and a partial exercise of a right does not preclude any further exercise of the right.

43. If the Account Holder is a Consumer (as the term "Consumer" is defined in section 3 of the Australian Consumer Law (which is at Schedule 2 of the Competition and Consumer Act 2010)) the Goods come with guarantees that cannot be excluded under the Australian Consumer Law. Nothing in these Terms purports to exclude, restrict or modify any guarantees, rights or remedies under the Australian Consumer Law, which cannot be excluded, restricted or modified.

Definitions

44. In these Terms:

30 Day Commercial Credit Account means an Account so designated;

Account means the credit account of the Account Holder with Bunnings for the supply of Goods credit by Bunnings to the Account Holder;

Account Holder means the applicant for an account named in an Application which is accepted by Bunnings;

Account Holder Land means all of the Account Holder's right, title and interest in land (held now or in the future, wherever located) whether owned by the Account Holder beneficially or as trustee of any Trust;

Application means an application for a credit account made to Bunnings;

Authorised User means an additional PowerPass cardholder that is authorised to use the PowerPass Account as nominated by the Account Holder, to which Bunnings has agreed.

Bunnings means Bunnings Group Limited ACN 008 672 179;

Bunnings Price Policy means Bunnings' price policy found at www.bunnings.com.au/policies/price-policy;

Business Day means a day other than a Saturday, Sunday or a public holiday in the place where the Account Holder has its primary place of business;

Closing Balance means the total amount owing on an Account at the end of a calendar month;

Commercial PowerPass Account means an Account so designated;

Credit Limit means the credit limit notified by Bunnings to the Account Holder from time to time;

Default Event means an event specified in clause 17;

Default Fee means the fee specified at clause 18 that the Account Holder is liable to pay to Bunnings on the happening of a Default Event;

Due Date means, in relation to any Goods, the last business day of the month following the month in which those Goods are supplied;

Goods means goods and services supplied or to be supplied by Bunnings to the Account Holder including goods manufactured at the Account Holder's request;

Guarantee means any guarantee and indemnity given by another person in favour of Bunnings guaranteeing the obligations of the Account Holder's to Bunnings and the payment of all Moneys;

Moneys means all moneys now or in the future actually or contingently owing by the Account Holder to Bunnings in respect of the account and includes any part of those moneys and includes all interest, costs, expenses, and disbursements (including costs, expenses and disbursements as specified in clause 20);

Monthly Minimum Payment only applies to Commercial PowerPass Accounts and means the minimum amount payable by the Account Holder by the end of the calendar month to avoid a Default Event and is the greater of the following: the excess of the Closing Balance of the previous calendar month over the credit limits; 25% of the Closing Balance of the previous calendar month (rounded to the nearest percent)l or, $100. If the Closing Balance of the previous calendar month is less than $100 then the Monthly Minimum Payment is that Closing Balance.

Non-Complying Order means an order that Bunnings is unable to accept such as a fraudulent order, or a purchase order different to goods intended for purchase;

PowerPass means each PowerPass issued or to be issued by Bunnings to the Account Holder or at the Account Holder's request for use in respect of the Account Holder's Account. Each PowerPass is provided by means of Bunnings issuing a physical PowerPass card to the Account Holder and, in order to be used for any purchases on credit, must have an active PIN;

PowerPass App means the application developed and made available by Bunnings for use on mobile devices by which the Account Holder and any users of PowerPass authorised by the Account Holder may enable the usage of PowerPass via the device;

PowerPass Card means the card issued by Bunnings to the Account Holder in relation to PowerPass;

PPSA means the Personal Property Securities Act 2009 (Cth) and any regulations made pursuant to it;

PPSR means the Personal Property Securities Register established pursuant to the PPSA;

Rate means 8.9% per annum, or such other rates as Bunnings may nominate by notice to the Account Holder, and such rates are applied as a daily percentage rate;

Security Interest has the same meaning as in the PPSA;

Special Hardship Application means a form that can be obtained by requesting a copy of the form by email from Bunnings Credit Services at **creditrecovery@bunnings.com.au;**

Temporary PowerPass Facility means the electronic document provided for immediate or interim access to the PowerPass Account;

Terms means these terms and conditions for the supply of Goods on credit; and

Trust means each trust for which the Account Holder holds land as a trustee.

Interpretation

45. In these Terms:
    a. If the Account Holder is more than one person "Account Holder" means those persons collectively and each of them individually and the obligations and liabilities on the part of the Account Holder in these Terms binds all of them jointly and each of them severally;
    b. A reference to the singular includes the plural and vice versa; and
    c. A person denotes an individual or corporation or other legal entity as applicable.