

# CORPORATE APPLICATION FORM

240 Princes Highway  
Arncliffe NSW 2205

**Phone:** 02 9562 1171  
**Fax:** 02 9562 1177



lowescorporatewear.com.au

**Email:**  
corporatequery@lowes.com.au  
**Mailing address:**  
PO Box 102  
Banksia NSW 2216

**Company name:** \_\_\_\_\_

**ABN:** \_\_\_\_\_

**Company Address:** \_\_\_\_\_ **Post Code:** \_\_\_\_\_

**Phone number:** \_\_\_\_\_ **Fax number:** \_\_\_\_\_

**Contact person:** \_\_\_\_\_ **Phone number:** \_\_\_\_\_

**Email to send statements/invoices:** \_\_\_\_\_

**Director/s:**

Name	Address	Email

**Trading Name:** \_\_\_\_\_

**Type of business:** \_\_\_\_\_

**How long Established:** \_\_\_\_\_ **How long established under current owner/s:** \_\_\_\_\_

**Estimated monthly REQ :** \_\_\_\_\_

**If an organisation other than the applicant will be paying the account please provide details:**

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_ **Post code:** \_\_\_\_\_

**Phone number:** \_\_\_\_\_ **Fax number:** \_\_\_\_\_

**Email address:** \_\_\_\_\_

**Trade References:**

Name	Email Address	Phone number

**Has any director been made Bankrupt in the last 5 years?** YES  NO

If Yes, Please provide particulars.

**Has any director been a director of a company to whom a liquidator receiver or administrator has been appointed in the last 5 years?**

If Yes, Please provide particulars. YES  NO

**DEED OF GUARANTEE AND INDEMNITY**

TO: Lowes-Manhattan Pty Limited. 240 Princes Highway, ARNCLIFFE NSW 2205

I/We the undersigned being a Director/Directors of the Applicant for credit ("the Company") in this Commercial Credit Application in consideration of Lowes-Manhattan Pty Limited ("the Supplier") agreeing to supply goods to the Company upon credit payment terms do hereby jointly and severally (if more than one) guarantee the payment of all sums of money which hereafter may fall due and owing by the Company to the Supplier including legal fees and out-of-pocket expenses associated with the collection of any outstanding monies from the Company.

I/We further agree jointly and severally (if more than one) to indemnify and keep indemnified the Supplier against all loss or damage howsoever arising which the Supplier may incur as a result of the failure by the Company in the performance of any of its obligations, whether for payment of money or otherwise, in favour of the Supplier. This Guarantee and indemnity shall be continuing, irrevocable and shall remain in force for so long as the Company has any obligations to the Supplier arising out of or in connection with the supply of goods by the Supplier to the Company. This Guarantee and Indemnity shall in addition not be affected by the granting of any time or other indulgence to the Company or the waiver of any rights that the Supplier may from time to time hereafter have against the Company.

This Guarantee and Indemnity shall not be prejudiced or adversely affected by the assignment or transfer of the principal indebtedness by the Company to another entity or by any change in the ownership of the Company or the insolvency or liquidation of the Company and shall continue until such date as the Supplier shall release me/us in writing from this guarantee.

No demand, proceedings, actions, claims or suits shall be required by the Supplier against the Company as a prerequisite to the Supplier making a claim against me/us under this guarantee.

I/We confirm that before signing this Guarantee and Indemnity I/we have read and understood the nature and effect of this Guarantee and Indemnity and the terms and conditions of supply of goods by the Supplier to the Company.

**AGREEMENT "COMMERCIAL CREDIT APPLICATION"**

TO COMPLY WITH THE PRIVACY AMENDMENT ACT 1990, I/We the undersigned, acknowledge that LOWES-MANHATTAN PTY LIMITED has informed me/us, in accordance with:

s. 18E(8Kc) of the Privacy Act 1988, that certain items of personal information about me/us contained in this application are permitted to be kept on a credit information file and may be disclosed to a credit reporting agency. Furthermore, I/we agree, in accordance with the following sections; s.18K(IXb), s.18K(IXc), s.18n(l)(b), s.18K(l)(h)(see below) that use by LOWES-MANHATTAN

PTY LIMITED of the relevant information referred to in those sections may occur for the purpose of assessing this application.

To enable this commercial Credit Application to be processed all directors and/or individuals involved in the running/owning of this business must complete the following information to comply with the Privacy Amendment Act 1990.

**LOWES CORPORATE WEAR**

**TERMS AND CONDITIONS OF TRADE**

**1. DEFINITIONS**

'Credit Account' means an account authorised by Lowes for the supply of Goods to the customer on credit payment terms.

'Lowes' means Lowes-Manhattan Pty Limited ACN 000 307 666.

\*The Customer<sup>9</sup> means the person, firm or company purchasing the Goods.

'The Goods' means the goods listed on the face of a Quotation, or otherwise ordered by the Customer for supply by Lowes.

A The Purchase Price' means the price for the supply of the Goods determined in accordance with the provisions hereunder.

'Quotation' means a written quotation provided by Lowes to the customer for the supply of Goods.

## **2. PRICE AND PRICE VARIATION**

2.1 The price payable for the Goods to be supplied shall be the amount stated on the face of a Quotation, or in the case of Goods ordered where there is no formal Quotation, the Purchase Price shall be the specific price verbally quoted to the Customer by Lowes' representative on a case by case basis, or where there is no quoted price an amount calculated by reference to Lowes' Price Book (or list), plus in all cases any applicable amount of Sale Tax, Goods and Services Tax or like government or statutory impost.

2.2 Lowes shall be entitled to adjust any price quoted or appearing in its Price Book (or list) from time to time, and the Customer agrees to pay such adjusted price, to take account of any of the following:

- (a) correction of errors or omissions on the part of Lowes or any of its representatives;
- (b) any variation of exchange rates subsequent to Lowes providing a quoted price, which alters Lowes' cost of sourcing the Goods;
- (c) any variation in the cost or rates of any government, statutory or other like charges, including customs or import duties, which directly or indirectly relate to Lowes' supply of Goods, occurring subsequent to Lowes providing a quoted price.

## **3. FORMATION AND SCOPE OF CONTRACT**

3.1 A Contract shall be formed upon the Customer making an offer to contract Lowes to supply the Goods which is accepted by Lowes either signing the Quotation, despatching to the customer written acceptance, or at its option, commencing delivery of the Goods.

3.2 An offer to contract may be made either verbally to an authorised officer of Lowes, or by despatch by mail or facsimile transmission to Lowes of an order or Quotation in respect of the Goods ordered duly signed.

3.3 Upon formation of a Contract in the manner indicated above these terms and conditions (together with any special conditions set out in a Quotation) shall constitute the entire agreement between Lowes and the Customer for the supply of the Goods.

## **4. PAYMENT**

4.1 The Purchase Price shall be paid to Lowes at the address of its Head Office in Sydney or if otherwise requested by Lowes, to the address of its branch office in the State in which the Goods are delivered and at the time or times stipulated.

4.2 If no time or manner of payment is otherwise agreed upon the Customer shall pay the Purchase Price prior to the expiration of thirty (30) days following the end of the month in which an invoice is issued to the customer.

4.3 Where the Purchase Price is not paid in full on the due date interest thereon at a rate of 11/2% per month shall accrue from day to day on the amount of the Purchase Price remaining unpaid and such interest shall be payable on demand.

4.4 Lowes reserves the right to suspend delivery of further Goods if the terms of payment are not strictly adhered to by the Customer.

## **5. DELIVERY**

5.1 The Goods shall be delivered by Lowes to the customer with all freight in respect of the delivery payable by the customer.

5.2 Lowes' obligations under the contract shall be deemed to be complete when the Goods are delivered into the possession of the Customer or its authorised agent.

5.3 Lowes shall be entitled to charge for and recover from the customer on demand all costs or loss occasioned by failure of the Customer to take delivery of the Goods as and when agreed to. Any such costs or loss shall include (but not be limited to) the cost of storage, labour, transportation and administration costs at Lowes prevailing commercial rates.

5.4 Notwithstanding the foregoing provision of this clause, the customer agrees to pay Lowes' handling charge of \$10 (or such other reasonable sum advised from time to time by Lowes to the Customer in the future) in respect of every single order placed with Lowes for the supply of Goods at a total Purchase Price of less than \$250.00

## **6. DELAY**

Any times given for supply and completion are approximate and for guidance only. Lowes shall not be under any liability nor shall the Customer be entitled to terminate the Contract in the event of reasonable delay unless expressly agreed in writing. Without limiting the generality of the foregoing, Lowes shall in no way be liable for delay occasioned by alterations to the contract or specification of the Goods, any act or default of the Customer or by fire, flood, earthquake, storm, tempest and other natural phenomenon, act of God, strikes, lock-outs, shortage of product or shipping or transport facilities, war, insurrection, riots, civil commotion or any orders or restrictions imposed directly or indirectly by a government authority agency or like department or body, unavoidable accident or any other circumstances beyond Lowes' control.

## **7. TITLE AND RISK**

7.1 Risk in the Goods shall pass to the Customer at the time when Lowes' obligations under the contract are deemed under Clause 5 to be completed.

7.2 Irrespective of the time when risk in the Goods shall pass, passing of property and title in the Goods shall be determined as follows:

- (a) Property and title in the Goods shall remain with Lowes until the Customer has made payment in full of the Purchase Price.
- (b) Pending payment in full of the Purchase Price the customer shall retain the Goods upon its premises (within the State of Australia that supply is made) in a manner such that they are readily identifiable as Lowes' property.
- (c) In the event that the Customer defaults in payment of the Purchase Price in full, Lowes and its employees or agents shall have the right to enter upon the Customer's premises or any other premises where the Goods are known to be stored to repossess the Goods, and for this purpose the Customer shall grant all reasonable access rights and Lowes shall be entitled to do all things required to secure re-possession. Upon re-possession of any of the Goods Lowes shall thereafter be entitled, in its discretion, to re-sell the Goods to any third party in which case the customer shall not have any action whatsoever against Lowes for breach of contract or otherwise.
- (d) If the customer sells or otherwise disposes of the Goods to a third party prior to making full payment of the Purchase Price or any other monies owing hereunder, Lowes shall be entitled to so much of the proceeds of such sale equivalent to the amount of the Purchase Price or so much thereof as remains owing to Lowes by the Customer.

7.3 In addition to any other monies payable by the customer to Lowes under this Agreement, Lowes shall be entitled to charge for and recover from the customer on demand all costs, loss or damage incurred by Lowes in exercising any of its rights under Clause 7.2 above, including, but not limited to, the cost of storage, labour, transportation and administration costs at Lowes' prevailing commercial rates.

## **8. CUSTOMER'S REPRESENTATIONS AND ACKNOWLEDGEMENT**

The Customer acknowledges that:

8.1 It is the customer's responsibility to inform Lowes of all requirements the customer has including requirements consequent upon legislation and regulations relating to the end use of the Goods in the State or Territory of intended use. Any failure by the Customer to inform Lowes of any such requirements shall not in any way entitle the customer to refuse to accept the Goods or pay the Purchase Price NOR shall Lowes be liable in any way whatsoever if the Goods fail to comply with any such requirements not disclosed by the customer to Lowes prior to the formation of the contract and the Customer shall indemnify Lowes in full against any loss or damage suffered by Lowes howsoever arising out of failure to comply.

8.2 Unless any particular purpose for which the customer is acquiring the Goods is specified clearly as part of an order made, the Customer warrants it has not advised Lowes of any particular purpose.

**9. LIABILITIES AND WARRANTIES**

9.1 If the Contract constitutes a supply of Goods to a Consumer as defined by the Trade Practices Act 1974 (Commonwealth) or any other relevant statute in the State in which the Goods are delivered then to the fullest extent that the said Acts permit, Lowes liability for breach of a Condition or Warranty implied by such Acts, including any consequential loss which the Customer may sustain or incur, shall be limited to one of the following at the election of Lowes:

- (a) replacement of the Goods or supply of equivalent Goods;
- (b) repair of the Goods;
- (c) payment of the cost of replacing the Goods or acquiring equivalent Goods; or
- (d) payment of the cost of having the Goods repaired.

9.2 Save for the express conditions and warranties herein contained or referred to all other conditions and warranties (whether as to quality, fitness for purpose or any other matter) expressed or imposed by statute, the common law, equity, trade custom or usage or otherwise howsoever are hereby expressly excluded PROVIDED THAT nothing in these terms and conditions shall exclude or limit liability for any breach of a term or condition implied by law, the exclusion or limitation of which is not permitted by law.

9.3 The Customer shall indemnify Lowes against and holds Lowes harmless from any and all claims, actions, proceedings, liabilities, expenses, losses or damages including, without limitation, claims by way of subrogation by any insurer, for personal injury, death or property damage arising out of or in connection with the negligent acts or omissions of the Customer in the handling, use and/or sale of the Goods or any of them.

9.4 The Customer acknowledges that Lowes shall not be under any liability to issue credit on any items which have been altered or defaced in any way or upon which any additional operations have been performed after leaving the control or possession of Lowes.

**10. CUSTOMER'S LIABILITY AND DEFAULT**

If the Customer shall:

- 10.1 fail to make any payment due under the Contract or commit any other breach of any of the Customer's obligations under the Contract; or
- 10.2 suffer execution under any judgement; or
- 10.3 commit an act of bankruptcy; or
- 10.4 make any composition or arrangement with any creditor; or
- 10.5 being a company, pass a resolution for winding up or have a receiver, mortgagee in possession or provisional liquidator appointed over any of its property or have a winding up petition presented against it or be placed under administration Lowes (in addition to any other remedies hereby or by statute conferred) may treat the Contract as terminated and any part of the Purchase Price then unpaid, together with any other monies owing hereunder, whether or not due under the terms of the contract shall forthwith become due and payable.

Any such termination shall be without prejudice to any claim or rights Lowes may otherwise possess.

**11. RETURNS**

11.1 The Customer agrees to obtain an authorisation number from Lowes prior to returning any Goods that are claimed to be defective or in respect of which the customer otherwise seeks a Credit. Goods returned without an authorisation number will not be accepted. Furthermore the Customer must advise Lowes of any defects which come to the customer's attention in respect of Goods supplied, within 14 days of the delivery of such Goods.

11.2 All Goods returned by the Customer to Lowes for claim shall be inspected by Lowes as soon as is reasonably convenient. Acceptance for inspection or the issue of an authorisation number will not be evidence that Lowes admits any claim made by the Customer.

11.3 All Goods returned to Lowes will only be accepted if the Goods and all tags are in the same condition as when supplied.

11.4 When returning Goods the Customer must state its name, address, account number, Lowes invoice number, the reason for return of the Goods and Lowes return authorisation number.

11.5 All freight charged in respect of the return of Goods to Lowes is to be borne by the Customer.

11.6 If Lowes, in its absolute discretion, agrees to issue a credit to the Customer in respect of Goods returned which are not defective, then Lowes reserves the right to issue a credit at the lower of either the then current list price, or the relevant invoice price in respect of the Goods so returned.

11.7 None of the provisions contained in this clause shall be interpreted such as to limit the rights or remedies of the customer in respect of defective Goods as provided under the Trade Practices Act (Commonwealth) or any other relevant statute in the State in which the Goods are delivered.

**12. WAIVER AND SEVERANCE**

Failure by Lowes to insist upon strict performance of any term, warranty or condition of the Contract shall not be deemed a waiver thereof or of any rights Lowes may have and no express waiver shall be deemed a waiver of any subsequent breach of any term, warranty or condition. If any provision contained in these conditions is found to be invalid, illegal or otherwise unenforceable then all other provisions which are self-sustaining and capable of separate enforcement without regard to the invalid, illegal or unenforceable provisions, shall be and continue to be valid and enforceable.

**13. GOVERNING LAW**

The Contract shall be governed by the law of the State in which the Goods are invoiced and the Commonwealth of Australia.

SECTION 18E(8Xc) Covers permission from an individual for the credit provider to give appropriate information to a credit reporting agency.

SECTION 18K( 1 Xb) Covers permission from an individual for the credit provider to obtain consumer credit history on an individual.

SECTION 18K( 1 Xc) Covers permission from a guarantor to obtain consumer information.

SECTION 18K( 1 Xh) Covers permission from an individual regarding obtaining further consumer information if the consumer defaults.

SECTION 18n( 1 Xb) Covers permission from an individual for a credit provider to give/obtain credit references from/to other credit provider.

**I confirm I have read the above and understand the implications of the Privacy Act 1988.**

\_\_\_\_\_  
**Name of Director**  
(Please print)

\_\_\_\_\_  
**Signature of Director**

**Full name:** \_\_\_\_\_

**Date of birth:** \_\_\_\_\_

**Current Address:** \_\_\_\_\_

**Post Code:** \_\_\_\_\_

**Position:**      **Director**       **Partner**       **Proprietor**