

ACCOUNT APPLICATION FORM

Return to PO Box 104021, Lincoln North, Auckland, 0654

Aarque Group Limited trading as: Aarque Graphics, Frontline and Aarque Sign&Screen
84 Central Park Drive, Henderson, PO Box 104021, Lincoln North, Auckland 0610
T: 09 837 2144, Freephone: 0508 22 77 83, E-mail: accounts@aarque.co.nz

Legal Name: _____ (The Buyer)

Trading Name: _____

Billing Address: _____

Shipping Address: _____

Phone: _____ Website: _____

Sales Contact: _____ Accounts Contact: _____

Phone: _____ Phone: _____

Email Address: _____ Email Address: _____

I wish to receive email updates on Aarque Group products and services

Type of Business

Limited Liability Partnership Sole Trader Other _____

PLEASE NOTE

Company Incorporation Number: _____

If Partnership, Sole Trader or Other, please attach a photocopy of your drivers licence to this application form.

Credit References

Businesses that can tell us about your trading history (Not utilities, lawyers, credit cards, petrol stations or banks)

1. _____ Phone: _____

2. _____ Phone: _____

3. _____ Phone: _____

Credit Requested

Purchase Order Number Required? Yes No

Credit Limit Requested: (equivalent to two months trading) \$ _____

Guarantor

The Guarantor/s undertake joint and several liability with the Buyer for all obligations imposed on the Buyer under this Agreement, on the terms and conditions stated in the Aarque Group Limited Terms and Conditions of Sale form.

SIGN HERE

Signed: _____ Date: _____

Full Name(s): _____

Applicant

I, the applicant together with the guarantor, certify that all details supplied above are true and correct and we, the entity, fully accept and will abide by the terms and conditions as stated in the Aarque Group Limited Terms and Conditions of Sale form.

SIGN HERE

Signed: _____ Date: _____

Full Name(s): _____ Position: _____

AUTHORISED SIGNATORY

Phone: _____ Email Address: _____

OFFICE USE ONLY

Account #: _____ Rep Code: _____

Approved: _____ Date: _____

Application sent by: _____

AARQUE GROUP LIMITED

Terms and Conditions

Trading as: Aarque Graphics, Aarque Frontline and Aarque Sign & Screen

1. **APPLICATIONS:** These terms and conditions of sale shall apply to every Contract for the sale of goods which is made by AARQUE GROUP LIMITED or any divisions of AARQUE GROUP LIMITED as that term is defined in the Companies Act 1993 (the Seller). This agreement may be executed in two or more counterparts, all of which will together be deemed to constitute one and the same agreement. The buyer may enter into this agreement by signing a counterpart copy and sending it to the seller by email and is subject to legibility criteria.
2. **CONTRACT:** The contract shall arise upon both parties accepting this order. In the case of the buyer acceptance of the order shall be completed upon the buyer signing the order or otherwise accepting the order (whether verbally or in writing) or accepting delivery of goods. The items contained in the order together with these terms and conditions shall be the conditions of the contract. All other conditions warranties descriptions representations and agreements whether expressed or implied by the law trade custom or otherwise are hereby excluded except for the company's official warranty where such warranty is issued and the buyer complies with the requirements of such warranty. No agent or representative of the company is authorised to make any representations statements conditions or agreements not expressly confirmed by the company in writing and the company is in no way bound by any such unauthorised statements nor shall any such statements be or be capable of being taken to form part of a contract with the company to this contract.
3. **PRICE:** The purchase price of the goods shall be the price ruling at the date of delivery unless otherwise agreed in writing. Any price indications or price lists are subject to alteration to the price ruling at the date of delivery. Unless otherwise stated, the purchase price is exclusive of Goods and Services Tax and other duties and tax which, if payable, shall be to the buyer's account and shall be governed by the provisions of clause 3 below as if they were part of the purchase price.
 - 3.1. **Payment and Default:** Subject to any variation of this clause which is notified to the buyer in writing, the purchase price of the goods shall be due and payable (in full) on the due date as stated and shown on the invoice.
 - 3.2. If payment is not received by the Seller on the due date, interest may be charged (at the Seller's discretion) at the rate of 18% per annum on any amounts not received. All costs incurred by the Seller arising out of the Buyer's failure to pay by the due date including full legal costs and all disbursements shall be payable by the Buyer on demand. If the buyer defaults in any payments or if the buyer commits any act of bankruptcy or if a company does any act which would render it liable to be wound up or a receiver appointed the seller may terminate the contract without prejudice to any other rights and payment for all goods delivered shall immediately become due and payable.
 - 3.3. If the buyer defaults in any term or conditions of the contract the company without prejudice to any right it has at law or equity reserves the right to enter upon any premises where the goods supplied are situated and take possession of and remove the same without being responsible for any damage thereby caused and the company may resell such goods and apply the proceeds towards payment of the purchase price.
 - 3.4. All orders placed under nett \$50.00 will be subject to and will incur a handling charge.
4. **DELIVERY:** Delivery shall be made at the place indicated by the order or as directed by the buyer and if no place shall be indicated by the order or be directed delivery shall be made at the company's premises.
 - 4.1. The Seller will make all reasonable efforts to have goods delivered to the buyer on the date agreed between the parties to be the date of delivery. The Seller may withhold delivery until all or any requirements of the Seller have been met including but not limited to the Buyers account having a current balance.
 - 4.2. Goods may be delivered in installments and in such case each delivery shall be regarded as a separate contract and goods delivered shall be paid for accordingly. The failure to make any delivery shall not vitiate the contract as to other deliveries.
 - 4.3. Notwithstanding any provisions as to the date of shipment and delivery, shipments or deliveries may be totally or partially suspended by the seller during any period in which the seller may be prevented from delivering through any circumstances outside its (reasonable) control - including but not limited to any: fire, accident, earthquake, flood, crime, war, blockage, civil commotion, epidemic, strike, lockout, labour dispute (whether or not at the works of the manufacturers) shortage of fuel, power or raw material or inability to obtain transport, and no such suspension shall entitle the buyer to cancel this contract or to refuse to accept delivery of the goods.
5. **RISK:** The risk in the goods purchased shall, unless otherwise agreed in writing, pass to the buyer on delivery. Without limiting the generality of this clause, the buyer assumes all risks and liabilities:
 - 5.1. for any consequences arising from the use of any or all of the goods whether singly or in combination with other products;
 - 5.2. for any damaged goods; and
 - 5.3. for any wrong deliveries ex wharf or otherwise.
6. **DAMAGE OR LOSS IN TRANSIT:** If when taking delivery at the wharf or otherwise, the buyer signs a clean receipt for goods which later are found to have been damaged or lost in transit, thereby prejudicing a possible claim on a third party, the Seller shall be freed from all responsibility for the loss or damage involved.
7. **RETURNS:** All goods are sold firm unless otherwise stated on the invoice. Goods that are supplied in error are returnable for replacement or credit, provided the error is notified to the Seller within seven days of the packing slip date. The date and number of the original packing slip or invoice must accompany the goods being returned, and the goods must be returned in their original packaging. No claim will be allowed where the goods have been marked or shop soiled. Defective items will be replaced, or if unavailable, credited in full, provided they are returned to the seller within seven days of receipt.
 - 7.1. Where the Seller does accept the goods for return unless the goods are supplied in error or defective, the costs for the return shall be to the buyer's account and the Seller may, in addition charge to the buyer a handling fee.
 - 7.2. No damages, direct or indirect, in respect of this contract shall exceed the invoice value of the specific goods or articles complained of, and no damages will be recoverable by the buyer, in any event, unless he gives written notice of his claim to the Seller within seven days of receipt of the goods.
8. **WARRANTY:** All goods are guaranteed to be of merchantable quality. Any warranties or conditions, statutory or otherwise, as to the good's quality or fitness for any purpose are excluded. Where, however, goods are supplied to the specifications of the buyer, these goods are guaranteed by the Seller to be in accordance with those specifications.
9. **LIABILITY:**
 - 9.1. The Consumer Guarantees Act 1993, the Fair Trading Act 1986 and other statutes may imply warranties or conditions or impose obligations upon the Seller which cannot (or which can only to a limited extent) be excluded or modified. In respect of any such implied warranties, conditions or terms, the Seller's liability shall, where it is allowed, only apply to the extent required by the relevant statute.
 - 9.2. Except as otherwise provided by clause 9.1 the Seller shall not be liable for any loss or damage of any kind whatsoever including consequential loss whether suffered or incurred by the Buyer or another person and whether in contract or tort (including negligence) or otherwise and irrespective of whether such loss or damage arises directly or indirectly from Goods and Services provided by the Seller to the Buyer, and
 - 9.3. The Buyer shall indemnify the Seller against all claims and loss of any kind whatsoever however caused or arising and without limiting the generality of the foregoing of this clause whether caused or arising as a result of the negligence of the Seller or otherwise, brought by any person in connection with any matter, act, omission, or error by the Seller its agents or employees in connection with Goods and Services.
10. **PERSONAL GUARANTEE:** In consideration of the Seller agreeing to enter into this Agreement with the Buyer, at the request of the Guarantor, the Guarantor (jointly and severally if more than one) hereby guarantee to the Seller the due and punctual payment by the Buyer to the Seller of the monies from time to time owing by the Buyer to the Seller in terms of this Agreement and due and punctual performance by the Buyer of all the obligations, duties, liabilities and covenants of the Buyer under this Agreement.
11. **CONSUMER GUARANTEE'S ACT:** If the Seller provides the goods to the Buyer for the purposes of a business, or in relation to the Buyer's business, the Buyer acknowledges that pursuant to Clause 43 of the Consumer Guarantee's Act 1993, the provisions of the said Act shall not apply.
12. **RESERVATION OF TITLE:**
 - 12.1. Risk in any goods supplied by the company for a customer shall pass when such goods are delivered to the customer or are held in custody on the customers behalf but ownership in such goods is retained by the company until payment is made for the goods and for all other goods supplied by the company to the customer.
 - 12.2. If any of the goods are incorporated in or used as material for other products so as to lose their separate identity, then ownership of that proportion of the new products equal in value to the total sum owing to the Seller shall on manufacture immediately vest in the Seller absolutely and not by way of charge until the Seller receives payment in full of all sums owing by the buyer under this or any other contract or otherwise, either from the buyer or by exercising its rights under clause 12.3 PROVIDED THAT the Seller may refuse tender of payment and may call for delivery of its proportion of the new product in lieu of payment. All the provisions of clause 12.3 shall apply to the new products and the proceeds of their sale.
 - 12.3. Until the Seller receives payment in full, the buyer shall hold or deal with the goods (clause 12.1) and/or the Seller's proportion of the new products (clause 12.2) for and on behalf of the Seller and in every respect as a fiduciary and agent.
 - 12.4. If the goods are sold by the buyer prior to payment having been made to the Seller, then the proceeds of the sale shall be held by the buyer on trust for and on behalf of the Seller in accordance with clause 12.8.
 - 12.5. The buyer shall not purport to assign to any other person the right to receive any such money held or owing to the buyer by a third party in respect of the goods and such purported assignment shall be void.
 - 12.6. The Seller hereby grants to the buyer the authority to deal with the goods and sell them at full market value in the ordinary course of its business PROVIDED THAT the proceeds of such sale are held or applied as specified in this clause 12 and PROVIDED THAT on payment being due and unpaid, the Seller may immediately withdraw the buyer's authority granted hereunder.
 - 12.7. Until payment in full is received the Seller may, without prejudice to any of its other rights or remedies, repossess any of the goods, whether or not payment may have been received for some, and for that purpose may by its servants or agents enter any premises where the goods may be situated and take whatever other action is required in order to repossess the goods. The Seller shall incur no liability arising as a result of such repossession of the goods, and the buyer hereby indemnifies the Seller, its servants and agents for any alleged liability arising as a result of the repossession, and the buyer shall pay all costs incurred by the Seller in respect of the repossession.
 - 12.8. Without limiting the generality of the obligations expressed or implied in the fiduciary relationship of the buyer to the Seller, the buyer shall: store or mark the goods so as to identify them as the Seller's property; receive and hold all proceeds of sale of the goods in the name of the Seller; allow the Seller to inspect any records, inventories and accounts of sale of the goods; and cease to deal with the goods and deliver them up to the Seller immediately should the Seller withdraw the buyer's authority to sell and deal with them. Transactions entered into after withdrawal of the buyer's authority to sell and deal with the goods shall be void.
 - 12.9. Personal Property Securities Act (PPSA):
 - a. The Buyer grant to the Seller a security interest in the goods supplied and the proceeds of the goods and the Buyer acknowledges that this Agreement creates a purchase money security interest in the goods and in the proceeds of the goods. The Buyer will, if the Seller requests, sign any documents (including any new contracts), provide all necessary information and do anything else required by the Seller to ensure that the Seller's purchase money security interest is a perfected security interest.
 - b. The Buyer will not enter into any security agreement and commit any other person to register any security interest in respect to the goods or the proceeds.
 - c. If the goods are for the Buyer's business use the Buyer agrees, to the extent Part 9 of the PPSA applies, that it will have no rights under Part 9 (Enforcement) of PPSA. For example, but without limitation:
 - i. The Buyer will have no rights under Section 114(1)(a) (to receive a notice of sale), Section 117(1)(c) (relating to distribution of surplus), and Section 133 (reinstating this contract);
 - ii. The Buyer waives its rights under Section 116 (to receive statement of account), Section 119 (to recover surplus), and Sections 120(2) and 121 (to receive notice of any proposal to retain the goods and object to any proposal)
 - d. The Buyer waives its rights under the PPSA to receive a copy of any verification statement or financing change statement.
 - e. The Buyer agrees that where the Seller has rights in addition to those in Part 9 of the PPSA, those rights will continue to apply.
 - f. For the purposes of this clause "PPSA" means the Personal Property Securities Act (1999).
 - g. The expressions "personal property", "purchase money security interest", "security agreement", "security interest", "protected security interest", "verification statement" and "financing change statement" have the meanings given to them under, or in the context of the PPSA.
 13. **ARBITRATION:** Any dispute arising under this contract shall be resolved in accordance with the provisions of the Arbitration Act 1996 unless the Seller decides that an alternative course of action should, in the circumstances, be preferred. In that event, the alternative course of action shall instead be taken PROVIDED THAT there are reasonable grounds for preferring that alternative action over arbitration.
 14. **CONDITIONS SEVERABLE:** Any part of these conditions is severable and if any provision herein is held to be illegal or unenforceable for any reason, this illegality or unenforceability shall affect only that portion of these conditions which in conflict and the remainder of these conditions shall remain in force.
 15. **VARIATION:** These conditions of sale may be unilaterally varied by the Seller from time to time, and every variation made pursuant to this clause shall be deemed to have been accepted by the buyer unless the buyer can reasonable be seen to have been unfairly prejudiced by the variation.
 16. **JURISDICTION:** All contracts made between the Seller and the buyer shall be governed by and construed in accordance with New Zealand law.
 17. **WAIVER:** All the original rights powers exemptions and remedies of the company shall remain in full force notwithstanding any neglect forbearance or delay in the enforcement thereof. Any waiver shall apply only to the particular transaction.
 18. **RESTRICTION ON BUYER'S POWER TO CANCEL:** The Seller undertakes at once to forward orders to enable this contract to be performed and in consideration thereof (and subject to suppliers being able to give delivery) the buyer is not to be at liberty to cancel this contract except on giving sufficient notice to enable the Seller to withdraw any such order before it is accepted, and in the event of such cancellation the buyer agrees to pay the Seller all the expenses incurred by the Seller in conjunction therewith.
 19. **PRIVACY CLAUSE:** The Buyer authorises any person or company to provide to the Seller such information as the Seller may require in response to the Seller's credit enquiry. The Buyer also authorises the Seller to furnish to any third party, details of this application and any subsequent dealings that the Buyer may have with the Seller as a result of this application being actioned by the Seller.