

NEW ACCOUNT CREDIT APPLICATION FORM

Instructions:

- 1) Complete all sections, incomplete applications cannot be processed.
- 2) Ensure every page is signed by all directors/partners/sole traders.
- 3) All pages of ORIGINAL application form must be returned to us before account can be opened.

Trading Name: _____

Company Name: _____ ACN: _____

Postal Address: _____

Delivery Address: _____

ABN: _____

Tel #: _____ Fax #: _____ Email: _____

Type of Business: ☐ Sole Trader ☐ Partnership ☐ Private Company (Pty Ltd) ☐ Public Company (Ltd)

Nature of Business: _____

How Long Established: _____ Accounts Payable Contact: _____

I would prefer my monthly statement to be ☐ Emailed ☐ Posted Copy of Invoice Emailed ☐ Yes ☐ No
(Invoices will be sent with all orders)

Full Name(s) of: Partners / Sole Trader / Directors: Full Details Must be Listed Below

Full Name	Home Address	Date of Birth
1.		
2.		
3.		
4.		

If Applicant Company is affiliated to a trading group or holding company give name and address of principal trading company: _____

Have any of the above individuals (directors/partners/sole traders) been declared bankrupt? _____

Have any of the above individuals (directors/partners/sole traders) been refused credit? _____

Name of Bank: _____ Branch: _____

Accountants Name: _____ Tel #: _____

Address: _____

Trade References Name (At least 3 Major Credit Suppliers Required)	Telephone No	Fax No	Email
1.	()	()	
2.	()	()	
3.	()	()	
4.	()	()	

I/We hereby certify that the above information is true and correct and that I/we have read and understand the terms and conditions of sale overleaf and agree to abide by these and the terms of payment which require net cash within 30 days from the end of the month in which the goods were purchased. I/We also acknowledge that goods are supplied subject to retention of title and remain the property of Croma Coatings until fully paid as referred to in conditions of sale.

Signed By:

Name: _____

Signature: _____ Date: _____

Position: _____

Witness Name: _____

Signature: _____ Date: _____

Name: _____

Signature: _____ Date: _____

Position: _____

Witness Name: _____

Signature: _____ Date: _____

All Directors/Partners/Sole Traders: to Initial each page

TERMS AND CONDITIONS OF SALE

1. Acceptance

- 1.1. Any instructions received by the Seller from the Buyer for the supply of Goods and/or the Buyer's acceptance of Goods supplied by the Seller constitutes acceptance of the Terms and Conditions contained herein.
- 1.2. Once these Terms and Conditions have been accepted, these Terms and Conditions will apply to all transactions relating to the supply of Goods between the Buyer and the Seller.
- 1.3. Upon acceptance of these Terms and Conditions by the Buyer the Terms and Conditions are irrevocable and can only be rescinded, varied or waived in accordance with these Terms and Conditions or with the written consent of the manager of the Seller.
- 1.4. None of the Seller's agents or representatives are authorised to make any representations, statements, conditions, or agreements not expressed by the manager of the Seller in writing nor is the Seller bound by any such unauthorised statements.
- 1.5. The Buyer acknowledges and agrees that these Terms and Conditions constitute the entire agreement between the Buyer and the Seller and that in instructing the Seller to supply Goods, accepting Goods from the Seller or accepting the Terms and Conditions the Buyer has not relied upon any representations, misrepresentations, statements, conditions, or agreements not expressed by the manager of the Seller in writing.
- 1.6. The Buyer must give the Seller not less than fourteen (14) days prior written notice of any proposed change in the Buyer's name and/or any other change in the Buyer's details, including but not limited to changes to the Buyer's address, payment details, facsimile, or business practice.
- 1.7. Where more than one Buyer has entered into these Terms and Conditions, the Buyers shall be jointly and severally liable for all payments of the Price.

2. Quotations

- 2.1. The Seller may provide the Buyer with a quotation containing an estimate of the Price.
- 2.2. The Seller reserves the right to amend any quotation before the Buyer's order has been completed to take into account any rise or fall in the cost of completing the order. The Seller will notify the Customer of any amendment as soon as practicable, at which point the amended quotation will contain the quoted Price for the purposes of these Terms and Conditions.
- 2.3. An indication in a quotation of the time frame for the provision of the Goods is an estimate only and is not a fixed time frame. Subject to any obligations in respect of consumer guarantees under the Australian Consumer Law, this estimate is not binding upon the Seller.

3. Goods

- 3.1. The Goods are as described on the invoices, quotation, work authorisation or any other work commencement forms as provided by the Seller to the Buyer.
- 3.2. The Seller reserves the right to, at any time and for any reason at the Seller's sole discretion, refuse the supply of any further Goods to the Buyer on credit terms regardless of whether the Seller has allowed the Buyer to purchase of Goods on credit at any particular time.
- 3.3. If at any time the Seller refuses to grant the Buyer credit for the purchase of Goods, this refusal does not affect the credit terms applicable to any amounts the Buyer owes the Seller for previous purchases.
- 3.4. An order for Goods placed by the Buyer cannot be cancelled without the prior written consent of the manager of the Seller. Where an order is cancelled, the Buyer must indemnify the Seller against all losses incurred by the Seller as a result of the cancellation. This includes, but is not limited to, loss of profit from other orders foregone as a result of the scheduling of the order which is subsequently cancelled.

4. Price and Payment

- 4.1. At the Seller's sole discretion the Price shall be either;
 - (a) as indicated on invoices provided by the Seller to the Buyer in respect of Goods supplied; or
 - (b) the Seller's quoted Price which shall be binding upon the Seller provided that the Buyer accepts in writing the Seller's quotation within thirty (30) days.
- 4.2. Time for payment for the Goods shall be of the essence and will be stated on the invoice, quotation or any other order forms. If no time is stated then payment shall be on delivery of the Goods.
- 4.3. The Seller may require the Buyer to pay additional charges in respect of costs incurred by the Seller as a result of:
 - (a) reliance on inadequate or incorrect information or material provided by the Buyer or information or material supplied later than required by the Seller in order for it to provide the Goods within the specified time frame (if any).
 - (b) cancellation by the Buyer of an order where cancellation results in loss to the Seller;
 - (c) storage costs for Goods not collected from the Seller within seven (7) days of the date on which the Goods are delivered to the Seller's address pursuant to clause 5.1;
 - (d) photocopying, courier, packing or handling charges not included in the quotation;
 - (e) any GST, and other taxes and duties which may be applicable, except to the extent that such taxes are expressly included in any quotation given by the Seller;
 - (f) additional work required by the Buyer or any other occurrence which causes the Seller to incur costs in respect of the Buyer's order additional to the quoted Price.
- 4.4. At the Seller's sole discretion, payment for approved Buyers, as determined by the Seller, shall be:
 - (a) due thirty (30) days following the end of the month in which the Goods were purchased and a statement is posted to the Buyer's address or address for notices; or
 - (b) in accordance with specific payment terms outlined in writing by the Seller's manager.
- 4.5. Payment will be made by cash on delivery, or by cheque, bank cheque, credit card, electronic funds transfer, or by any other method as directed to the Buyer in writing by the Seller.
- 4.6. Credit card payments attract a 2% surcharge for payments of 30 day accounts. Please note that this amount is subject to change at the Seller's discretion.
- 4.7. Receipt by the Seller of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then the Seller's title in the Goods shall continue pursuant to clause 11.

- 4.8. The Seller may require payment of the Price or the balance of the Price due together with any other amounts due from the Buyer to the Seller arising out of these Terms and Conditions, and the Seller may take any lawful steps to require payment of the amounts due and the Price.
- 4.9. The Seller may commence legal proceedings to recover the Price of the Goods sold notwithstanding that title in the Goods may not have passed to the Buyer.

5. Delivery of Goods

- 5.1. Delivery of the Goods shall be made to the Buyer's address as set out in the New Account Credit Application Form or as directed by the Buyer to the Seller at the time of the order of the Goods. The Buyer must make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery, otherwise delivery of the Goods shall be made to the Buyer at the Seller's address.
- 5.2. Delivery of the Goods to a carrier, either nominated by the Buyer or, failing such nomination, to a carrier at the discretion of the Seller for the purpose of transmission to the Buyer, is deemed to be a delivery of the Goods to the Buyer.
- 5.3. Delivery fees will apply for orders within the metropolitan area which are less than the minimum order value as determined by the Seller. For orders being delivered to regional NSW and ACT destinations there is a standard delivery charge. Please note that these amounts are subject to change at the Seller's discretion. For delivery of some Goods (including but not limited to bulky items) further charges may apply for Sydney metropolitan, regional NSW and ACT destinations. Freight charges for orders being delivered to Queensland and Victorian destinations will be calculated on a per order (invoice) basis.
- 5.4. The Seller may deliver the Goods by separate instalments (in accordance with the agreed delivery schedule). Each separate instalment shall be invoiced and paid for in accordance with these Terms and Conditions.
- 5.5. Delivery of the Goods to a carrier nominated by the Buyer is deemed to be delivery to the Buyer for the purposes of these Terms and Conditions and any delivery fees in relation to a delivery to a carrier nominated by the Buyer or determined by the Seller will be payable by the Buyer.
- 5.6. The Buyer shall take delivery of the Goods tendered notwithstanding that the quantity that is delivered shall be either greater or less than the quantity purchased provided that:
 - (a) such discrepancy in quantity does not exceed 10%; and
 - (b) the Price is adjusted pro rata to the discrepancy.
- 5.7. The failure of the Seller to deliver shall not entitle the Buyer to treat these Terms and Conditions as repudiated.
- 5.8. The Seller is not liable for any loss or damage whatsoever caused by the failure by the Seller to deliver any or all of the Goods promptly or at all.

6. Risk

- 6.1. Although the Seller retains title in the Goods pursuant to clause 11.1(a), all risk for the Goods passes to the Buyer on any form of delivery pursuant to clause 5.
- 6.2. If any of the Goods are damaged or destroyed prior to title in the Goods passing to the Buyer, the Seller is entitled, without prejudice to any of its other rights or remedies under these Terms and Conditions (including the right to receive payment of the balance of the Price for the Goods), to receive all insurance proceeds payable for the Goods. This applies whether or not the Price has become payable under the Terms and Conditions. The production of these Terms and Conditions by the Seller is sufficient evidence of the Seller's rights to receive the insurance proceeds without the need for any person dealing with the Seller to make further enquiries.

7. Buyer's Disclaimer

- 7.1. The Buyer hereby disclaims any right to rescind, cancel the Terms of Conditions or commence legal proceedings for damages or claiming restitution arising out of any misrepresentation made to it by any servant or agent of the Seller and the Buyer acknowledges that it purchases the Goods relying solely upon its own knowledge, skill and judgement and that the Seller is not bound by nor responsible for any term, condition, representation, misrepresentation or warranty.

8. Defects / Returns

- 8.1. The Buyer must inspect the Goods on delivery and shall within seven (7) days of delivery notify the Seller of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Buyer must afford the Seller an opportunity to inspect the Goods within a reasonable time following delivery if the Buyer alleges that the Goods are defective in any way.
- 8.2. All information, specifications and samples provided by the Seller in relation to the Goods are approximations only and, subject to any guarantees under the Australian Consumer Law, small deviations or slight variations from them which do not substantially affect the Buyer's use of the Goods will not entitle the Buyer to reject the Goods upon delivery, or to make any claim of defect in respect of them.
- 8.3. If the Seller acknowledges in writing that the Goods are defective, the Seller's liability in relation to the defective Goods is limited to either (at the Seller's discretion) replacing the Goods or repairing the Goods provided that:
 - (a) the Buyer has complied with the provisions of clause 8.1;
 - (b) the Goods are returned at the Buyer's expense within seven (7) days of the delivery date; and
 - (c) the Goods are returned in the condition in which they were delivered and with all packaging material, brochures and instruction material in as new condition as is reasonable in light of the defect.
- 8.4. The Seller is not liable for Goods which have not been stored or used in a proper manner;
- 8.5. The Seller may (at its sole discretion) accept Goods for credit, however any Goods accepted for credit may incur a handling fee of 15% of the value of the returned Goods plus any freight.
- 8.6. If the Buyer fails to comply with this clause 8, the Goods shall be conclusively presumed to have been supplied in accordance with the Terms and Conditions and free from any defect or damage.

9. Default and Consequences of Default

- 9.1. If the Buyer fails to make payment of any invoice that becomes due, the Buyer will be in default of payment and will be charged interest.
- 9.2. Interest on overdue invoices shall accrue from the date when payment becomes due daily until the date of payment at a rate of 2.5% compounding per calendar month and shall accrue at such a rate after as well as before any judgement.

- 9.3. If the Buyer defaults in payment of any invoice when due, the Buyer must indemnify the Seller from and against all of the Seller's costs and disbursements incurred in relation to enforcing the Terms and Conditions, including on a solicitor and own client basis and the Seller's nominees costs of collection.
- 9.4. Without prejudice to any other remedies the Seller may have, if at any time the Buyer is in breach of the Terms and Conditions (including those relating to payment), the Seller may suspend or terminate the supply of Goods to the Buyer and any of the Seller's other obligations under the Terms and Conditions. The Seller will not be liable to the Buyer for any loss or damage the Buyer suffers because the Seller exercised its rights under this clause 9.4.
- 9.5. If any invoice remains unpaid at the end of the second month after the supply of the Goods, the Seller will charge to the Buyer an administration fee and the Buyer must immediately pay to the Seller the greater of \$20.00 or 10% of the amount overdue.
- 9.6. In the event that:
- (a) Any money payable to the Seller becomes overdue, or in the Seller's opinion the Buyer will be unable to meet its payments as they fall due;
 - (b) the Buyer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
 - (c) a receiver, manager, administrator, liquidator (provisional or otherwise) or similar person is appointed in respect of the Buyer or any asset of the Buyer;
- then without prejudice to the Seller's other remedies at law:
- (i) the Seller is entitled to cancel all or any part of any order of the Buyer which remains unperformed; and
 - (ii) the balance of the Price together with all interest accrued on the Price and not then paid, at the option of the Seller and notwithstanding any delay or previous waiver of the right to exercise that option, immediately becomes due and payable upon demand by the Seller.

10. Title and PPSA

- 10.1. The Seller reserves certain rights in relation to the Goods until all accounts owed by the Buyer to the Seller are fully paid and the Buyer has met all other obligations due by the Buyer to the Seller in respect of all contracts between the Seller and the Buyer. The Seller possesses the following rights:
- (a) title in the Goods;
 - (b) that the Goods shall be kept separate;
 - (c) to enter the Buyer's premises (or the premises of any associated company or agent where the Goods are located) without liability for trespass or any resulting damage and retake possession of the Goods; and
 - (d) subject to, and in accordance with, the PPSA to keep or resell any Goods repossessed.
- 10.2. Title in the Goods will pass to the Buyer after all accounts owed by the Buyer to the Seller are fully paid and the Buyer has met all other obligations due by the Buyer to the Seller in respect of all contracts between the Seller and the Buyer.
- 10.3. Until such time as title in the Goods shall pass from the Seller to the Buyer:
- (e) These Terms and Conditions constitute a security agreement;
 - (f) The interest of the Seller in the Goods, in any products created from the Goods is a security interest and in all of the proceeds from the sale of the Goods or the products created by from the Goods by the Buyer to a third party;
 - (g) The Buyer consents to the Seller registering its security interest on the PPS Register and agrees to provide all assistance, financial or otherwise, reasonably required by the Seller to facilitate registration;
 - (h) The Buyer agrees not to in any way assign, charge, lease or otherwise deal with the Goods in such a manner as to create, a security interest over, the Goods in favour of the Buyer or any third party. The parties agree that this clause 10 will not prohibit the Buyer from selling the goods in the ordinary course of business;
 - (i) The Buyer waives its rights to receive any notice under the PPSA (including notice of verification statement) unless the notice is required by the PPSA and cannot be excluded;
 - (j) The Buyer waives its right to receive a copy of the verification statement confirming registration of the security interest created by this Agreement;
 - (k) The Seller and Buyer agree that these Terms and Conditions and all related information and document(s) are confidential (Confidential Information) and will not be disclosed to unauthorised representatives or third parties, except to the extent disclosure is permitted by this agreement or required by law. The Seller and Buyer agree that the Seller will not disclose the Confidential Information pursuant to a request under section 275(1) of the PPSA;
 - (l) Unless the Goods are used predominantly for personal, domestic or household purposes, the Seller and the Buyer agree each of the following requirements or rights under the PPSA do not apply to the enforcement of the Seller's security interest in the Goods or of this clause 10:
 - (i) any requirement for the Seller to give the Buyer a notice of removal of accession;
 - (ii) any requirement for the Seller to give the Buyer a notice of the Seller's proposed disposal of the Goods;
 - (iii) any requirement for the Seller to include in a statement of account, after disposal of the Goods, the details of any amounts paid to other secured parties;
 - (iv) any requirement for the Seller to give the Buyer a statement of account if the Seller does not dispose of the Goods;
 - (v) any right the Buyer has to redeem the Goods before the Seller exercises a right of disposal; and
 - (vi) any right the Buyer has to reinstate this agreement before the Seller exercises a right of disposal of the Goods.
 - (vii) Expressions defined in the PPSA have the same meaning when used in this agreement.

11. Unpaid Seller's Rights under the PPSA

- 11.1. The Seller may enforce its rights and seek any remedies available to it under the PPSA in the event that:
- (a) the Seller retains title of the Goods; and
 - (b) payment of the Price is due to the Seller; and
 - (c) the Seller has made demand in writing of the Buyer for payment of the Price in accordance with these terms and conditions; and
 - (d) the Seller has not received the Price of the Goods.

12. Cancellation

- 12.1. The Seller may cancel these Terms and Conditions or cancel delivery of Goods at any time before the Goods are delivered by giving written notice to the Buyer. The Seller shall not be liable for any loss or damage whatever arising from such cancellation.

All Directors/Partners/Sole Traders: to Initial each page _____

13. Privacy Act

- 13.1. Pursuant to sections 6L(1)(b)(ii) and 20R(1) of the Privacy Act, the Buyer hereby authorises the Seller to request and obtain from a credit reporting body the credit reporting information of the Buyer for the following purposes:
- (a) To assess an application by Buyer;
 - (b) To notify other credit providers of a default by the Buyer;
 - (c) To exchange information with other credit providers as to the status of this credit account, where the Buyer is in default with other credit providers; and
 - (d) To assess the credit worthiness of the Buyer.
- 13.2. The Buyer hereby authorises the Seller to exchange information about the Buyer with a credit reporting body for the purposes set out in clause 13.1(a) to (d).
- 13.3. The Seller may give information about the Buyer to a credit reporting body for the following purposes:
- (e) to obtain a consumer credit report about a Buyer; and or
 - (f) allow the credit reporting agency to create or maintain a credit information file containing information about the Buyer.
- 13.4. The Buyer agrees that personal information provided may be used and retained by the Seller for the following purposes and for any other purpose as agreed between the Buyer and the Seller or required by law from time to time:
- (a) provision of Goods;
 - (b) marketing of Goods by the Seller, its agents or distributors in relation to the Goods;
 - (c) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Buyer; and
 - (d) enabling the daily operation of the Buyer's account and/or the collection of amounts outstanding in the Buyer's account in relation to the Goods.

14. Exclusions and limitation of liability

- 14.1. The Buyer expressly agrees that use of the Goods is at the Buyer's risk. To the full extent allowed by law, the Seller's liability for breach of any term implied into these Terms and Conditions by any law is excluded.
- 14.2. The Seller gives no warranty in relation to the Goods provided or supplied. Under no circumstances is the Seller or any of its suppliers liable or responsible in any way to the Buyer or any other person for any loss, damages, costs, expenses or other claims (including consequential damages and loss of profits or loss of revenues) as a result, directly or indirectly, of any:
- (a) Goods supplied to the Buyer;
 - (b) defect, deficiency or discrepancy in the Goods;
 - (c) delay in supply of the Goods;
 - (d) failure to supply the Goods;
 - (e) error, representation, misrepresentation or omission of the Seller; or
 - (f) negligence of the Seller.
- 14.3. Any advice, recommendation, information, assistance or service given by the Seller in relation to Goods or both, is given in good faith and is believed to be accurate, appropriate and reliable at the time it is given. It is provided without any warranty or accuracy, appropriateness or reliability. The Seller does not accept any liability or responsibility for any loss suffered as a result of the Buyer's reliance on such advice, recommendation, information, assistance or service.
- 14.4. The Australian Consumer Law may give to the Customer certain guarantees. Where liability for breach of any such guarantee can be limited, the Seller's liability (if any) arising from any breach of those guarantees is limited with respect to the supply of Goods, to the replacement or repair of the Goods or the costs of resupply or replacement of the Goods.

15. Indemnity

- 15.1. The Buyer indemnifies and keeps indemnified the Seller, its servants and agents in respect of any claim or demand made or action commenced by any person (including, but not limited to, the Buyer) against the Seller or, for which the Seller is liable, in connection with any loss arising from or incidental to the provision of Goods, any order or the subject matter of these Terms and Conditions.
- 15.2. This indemnity includes, but is not limited to, any legal costs incurred by the Seller in relation to meeting any claim or demand or any party/party legal casts for which the Seller is liable in connection with any such claim or demand.
- 15.3. This provision remains in force after the termination of these Terms and Conditions.

16. General

- 16.1. If any provision of these Terms and Conditions is invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions will not be affected, prejudiced or impaired.
- 16.2. All Goods supplied by the Seller are subject to the laws of New South Wales and the Seller takes no responsibility for changes in the law which affect the Goods supplied.
- 16.3. The Seller is not liable whatsoever to the Buyer for any indirect loss and/or expense (including loss of profit) suffered by the Buyer arising out of a breach by the Seller of these Terms and Conditions.
- 16.4. In the event of any breach of these Terms and Conditions by the Seller, the remedies of the Buyer shall be limited to damages not exceeding the Price of the Goods.
- 16.5. The Buyer must not set off against the Price amounts due from the Seller.
- 16.6. The Seller may license or sub-contract all or any part of its rights and obligations without the Buyer's consent.
- 16.7. The Seller reserves the right to sell a current or overdue (or outstanding) debt owed by the Buyer to the Seller to a third party, including but not limited to collection agencies and debt collectors. Any new owner of the Buyer's debt (for which the monies are owed) may take any legal action and any necessary steps, without liability, to recover such debt.
- 16.8. The Seller reserves the right to review these Terms and Conditions at any time and from time to time. If, following any such review, there is to be any change to these Terms and Conditions, that change will take effect from the date on which the Seller notifies the Buyer of that change.
- 16.9. Neither the Buyer nor the Seller shall be liable for any default due to any act of God, war, terrorism, strike, lock out, industrial action, fire, flood, drought, storm or other event beyond the reasonable control of either party.

17. Definitions

- 17.1. “**ACT**” means Australian Capital Territory;
- 17.2. “**Australian Consumer Law**” means the Australian Consumer Law as set out in Schedule 2 of the Competition and Consumer Act;
- 17.3. “**Buyer**” means the person or corporation who completes and executes the New Credit Application Form or any person acting on its behalf and with its authority;
- 17.4. “**Competition and Consumer Act**” means the *Competition and Consumer Act 2010* (Cth);
- 17.5. “**Goods**” means goods and service supplied by the Seller to the Buyer, including but not limited to any advice or recommendations;
- 17.6. “**NSW**” means New South Wales;
- 17.7. “**PPSA**” means the *Personal Property Securities Act 2009* (Cth);
- 17.8. “**PPS Register**” means the Personal Property Securities Register established under section 147 of the PPSA;
- 17.9. “**Price**” means the cost of the Goods as agreed between the Seller and the Buyer subject to clause 4 of these Terms and Conditions;
- 17.10. “**Privacy Act**” means the *Privacy Act 1988* (Cth);
- 17.11. “**Seller**” means Twenty Two Holdings Pty Ltd T/as Croma Coatings and its successors and assigns; and
- 17.12. “**Terms and Conditions**” means these terms and conditions of sale.

OFFICE USE ONLY

NOTES:

VEDA CHECK:

VEDA CREDIT SCORE COMPANY:

VEDA CREDIT SCORE INDIVIDUAL:

Approved: _____

Terms: Net: 7 days / 14 days / 30 days / Other: _____

Date: _____

Credit Limit: _____