

Credit Account Application Form – Infrapipe Ltd.

Name (applicants full legal name –i.e. not Trading name)			
Sole Trader	Individual <input type="checkbox"/>	Partnership <input type="checkbox"/>	Limited Company <input type="checkbox"/>
Other (please specify)			
Trading As			
Postal Address			
Physical Address			
Nature of Business			Years in Business
Contact person (main person placing orders)			
Telephone			Website
Mobile			Accounts Payable Email
Ownership (please insert owners/Directors name/s and address in full)	1		
	2		
	3		
Registered Office (If Limited Liability Company)			
Date Incorporated			Affiliated Companies
Capital			Paid Up
Securities over business assets			
Accountant			
Solicitor			
Bank			Branch
Trade References			
Company	Contact	Phone Number	Account Opened since
I have read and agree to be bound by the terms and conditions of trade as attached. I/We warrant to Infrapipe Ltd that the above information is to the best of my knowledge, information and belief true and correct and that I am duly authorised to enter into the application and future contracts on behalf of the customer			
Signed			
Print Name			
Designation			
Date			

Please also read and initial the Terms of Trade pages and return to Infrapipe Ltd

GUARANTEE AND INDEMNITY

IN CONSIDERATION of _____ ("the seller") supplying and continuing to supply goods and/or services to _____ ("the customer") **I/WE JOINTLY AND SEVERALLY:**

1. **GUARANTEE** the payment on demand to the seller of all moneys now owing to the seller by the Customer and all further sums of money from time to time owing to the seller by the Customer in respect of goods and services supplied or to be supplied by the seller to the Customer or any other liability of the Customer to the seller.
2. **HOLD HARMLESS AND INDEMNIFY** the seller on demand, as a separate obligation, against any liability (including but not limited to damages, costs, losses and legal fees) incurred by or assessed against the seller in connection with:
 - the supply of goods or services to the Customer; or
 - the recovery of moneys owing to the seller by the Customer including the enforcement of this guarantee; or
 - moneys paid by the seller with the Customer's consent in settlement of a dispute that arises or results from a dispute between, the seller, the Customer, and a third party, or any combination thereof, over the supply of goods or services by the seller to the Customer.
3. **ACKNOWLEDGE** this Guarantee and Indemnity shall constitute an unconditional and continuing guarantee and indemnity and accordingly shall be irrevocable and remain in full force and effect until the whole of moneys owing to the seller by the Customer and all obligations herein have been fully paid, satisfied and performed.
4. **FURTHER ACKNOWLEDGE** that no granting of credit, extension of further credit, or granting of time and no waiver, indulgence or neglect to sue on the seller's part (whether in respect of the Customer or any one or more of any other guarantor(s) or otherwise) and no failure by any named guarantor to properly execute this deed shall impair or limit the liability under this Guarantee and Indemnity of any guarantor. Without affecting the Customer's obligations to the seller, each guarantor shall be a principal debtor and liable to the seller accordingly.
 5. I/We irrevocably authorise the seller to obtain from any person or company any information which the seller may require for credit reference purposes. I/We further irrevocably authorise the seller to provide to any third party, in response to credit reference and enquires about me/us or by way of information exchange with credit reference agencies, details of this guarantee and any subsequent dealings that I/We may have with the seller as a result of this guarantee being actioned by the seller.
6. I/We further acknowledge that the above information is to be used by the seller for all purposes in connection with the seller considering this guarantee and the subsequent enforcement of the same.

GUARANTOR -1	
SIGNED:	.....
Full Name:	.....
Present Address:	.....
SIGNATURE OF WITNESS:	.....
Name of Witness:	..... Occupation:
Present Address:	.....

EXECUTED as a deed this day of 199

GUARANTOR -2	
SIGNED:	.....
Full Name:	.....
Present Address:	.....
SIGNATURE OF WITNESS:	.....
Name of Witness:	..... Occupation:
Present Address:	.....

EXECUTED as a deed this day of 202

- Note:
1. If the Customer is a sole trader or partnership the guarantor(s) should be some other suitable person(s).
 2. If the Customer is a company the guarantor(s) should be a director and/or shareholder.
 3. If the Customer is a club or incorporated society the guarantors should be the president and secretary or other committee member.

TERMS & CONDITIONS OF TRADE

1. DEFINITIONS

- 1.1 "Infrapipe" shall mean Infrapipe Ltd, or any agents or employees thereof. 1.2 "Customer" or "you" shall mean the customer, any person acting on behalf of and with the authority of the customer, or any person purchasing goods from Infrapipe.
- 1.3 "Goods" shall mean all goods, chattels, or services, provided by Infrapipe to the customer, and shall include without limitation the supply of all plastic pipe and fittings and materials and all charges for labour and work, hire charges, insurance charges, or any fee or charge associated with the supply of goods by Infrapipe to the customer.
- 1.4 "Price" shall mean the cost of the goods as agreed between Infrapipe and the customer subject to clause 4 of this contract.

2. QUOTATION

- 2.1 Where a quotation is given by Infrapipe it:
- 2.2 is valid for 30 days from the date of issue; and
- 2.3 shall be exclusive of Goods and Services Tax unless specifically stated to the contrary;
- 2.4 is based on the rates and costs as at the date of quotation of materials, transport, labour, customs duty, insurance and other rates and charges and shall be increased or decreased by the amount of any increase or decrease in any such items or any other factors affecting the cost of production and/or delivery and/or installation due to circumstances beyond our control after date of quotation;
- 2.5 is upon the basis that reasonable access to the property or premises is available where it includes the cost of delivery to the property or premises. If such access is not available an extra charge for handling will be added;
- 2.6 unless we have measured the structure at your request for the purposes of this quotation the sizes in the quotation are based upon the specifications supplied by you and additional costs arising from any inaccuracy of such specification shall be payable by you
- 2.7 Where goods are required in addition to the quotation the customer agrees to pay for the additional cost of such goods.

3. ACCEPTANCE

- 3.1 Any instructions received by Infrapipe from the customer for the supply of goods shall constitute acceptance of the terms and conditions contained herein.
- 3.2 These terms and conditions constitute the entire agreement between Infrapipe and the customer and prevail over other communications between Infrapipe and the customer be they oral or written, previous or contemporaneous unless otherwise expressly agreed in writing and signed by or on behalf of Infrapipe ("this contract").

4. COLLECTION AND USE OF INFORMATION

- 4.1 The customer authorizes Infrapipe to collect, retain and use of any information about the customer, or for the purpose of assessing the customer's credit worthiness, enforcing any rights under this contract, or marketing any goods and services provided by Infrapipe to any other party.
- 4.2 The customer authorizes Infrapipe to disclose any information obtained to any person for the purposes set out in 4.1.
- 4.3 Where the customer is a natural person the authorities under clause 4.1 and 4.2 are authorities or consents for the purposes of the Privacy Act 1993.

5. PRICE

- 5.1 Where no price is stated in writing or agreed to orally the goods shall be deemed to be sold at the current amount as such goods are sold by Infrapipe at the time of the contract.
- 5.2 The price may be increased by the amount of any reasonable increase in the cost of supply of the goods that is beyond the control of Infrapipe between the date of the contract and delivery of the goods.

6. PAYMENT

- 6.1 Payment for goods shall be made in full on or before the 20th day of the month following the date of the invoice, or on receipt of delivery of goods, whichever is the earlier ("the due date").
- 6.2 Interest may be charged on any amount owing after the due date at the rate of 2.5% per month or part month.
- 6.3 Any expenses, disbursements and legal costs incurred by Infrapipe in the enforcement of any rights contained in this contract shall be paid by the customer, including any reasonable solicitor's fees or debt collection agency fees.
- 6.4 Receipt of a cheque, bill of exchange, or other negotiable instrument shall not constitute payment until instrument is paid in full.

7. CONSTRUCTION CONTRACTS ACT 2002

- 7.1 Each invoice tendered by Infrapipe to the customer is a payment claim ("Payment Claim") issued under the Construction Contracts Act 2002 ("CCA").
- 7.2 Infrapipe reserves its right to take legal action against the customer for failure to pay the Payment Claim in full under the CCA.

8. DEFAULT

- 8.1 The customer is in default, in the event that:
- 8.2 any money payable to Infrapipe becomes overdue, or in Infrapipe's opinion the customer will be unable to meet its payments as they fall due; or
- 8.3 the customer 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 has judgment entered against it or the guarantor(s); or
- 8.3 a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the customer or any asset of the customer; then without prejudice to Infrapipe other remedies at law;
- 8.4. Infrapipe shall be entitled to cancel all or any part of any order of the customer which remains unperformed in addition to, and without prejudice to any other remedies; and all amounts owing to Infrapipe shall, whether or not due for payment, immediately become payable.
- 8.5 Infrapipe may in its discretion allocate any payment received from the customer towards any invoice that Infrapipe determines and may do so at the time of receipt or at any time afterwards and on default by the customer may reallocate any payments previously received and allocated.

9. CUSTOMERS OBLIGATION PRIOR TO INSOLVENCY OR INABILITY TO PAY IN FULL

- 9.1 The Customer agrees to notify Infrapipe immediately on any and all financial issues or events including but not limited to being served with a statutory demand, notice of claim, statement of claim or default notice or demand letter or any other legal document or proceeding that may affect the customer's ability to make payment for the goods or work in progress or work performed by Infrapipe ("Notification").
- 9.2 On Notification, Infrapipe may then exercise its rights under clause 8.4 and 8.5.
- 9.3 The customer and its directors and/ or guarantor(s) acknowledge that they will be (personally) liable to Infrapipe for any unpaid amount owing if the customer is in default under clause 8 and fails to fulfil its obligation under clause 9.1 to Infrapipe.

10. RISK

- 10.1 The goods remain at Infrapipe's risk until the delivery to the customer, but when title passes to the customer pursuant to clause 9.1 of this contract the goods are at the customer's risk whether delivery has been made or not.
- 10.2 Delivery of goods shall be deemed complete when Infrapipe gives possession of the goods for delivery to the customer, or possession of the goods is given to a common carrier, or other bailee for the purposes of transmission to the customer.
- 10.3 The time agreed for delivery shall not be an essential term of this contract unless the customer gives written notice to Infrapipe making the time essential.
- 10.4 Where Infrapipe delivers goods to the customer by instalments and Infrapipe fails to deliver one or more instalments the customers shall not have the right to repudiate the contract but shall have the right to claim compensation as a severable breach.
- 10.5 Where we deliver goods to your premises or the place directed by you for the purposes of erection or installation all losses arising from destruction or theft or damage from whatever cause including weather, fire, water, earthquake and accident and whether they are wholly or partly installed or left on the site shall be borne to you.

11. AGENCY

- 11.1 The customer authorizes Infrapipe to contract either as principal or agent for the provision of goods that are the matter of this contract.
- 11.2 Where Infrapipe enters into a contract of the type referred to in clause 11.1 it shall be read with and form part of this contract and the customer agrees to pay any amounts due under the contract.

12. TITLE

12.1 If the goods are ascertained and in a deliverable state, title in the goods passes to the customer when the customer has made payment for all goods supplied by Infrapipe.

12.2 Where the customer has not paid for any goods in its possession property in such goods shall remain with Infrapipe and:

12.3 The goods shall be held by the customer as bailee; and

12.4 If the goods are attached, fixed, or incorporated into any property of the customer, by way of manufacturing or assembly process by the customer or any third party, title in the goods shall remain with Infrapipe until the customer has made payment on all goods, and where those goods are mixed with other property so as to be part of or a constituent of any new goods, title to these new goods shall be deemed to be assigned to Infrapipe as security for the satisfaction by the customer of the full amount owing between Infrapipe and customer.

12.5 The customer gives irrevocable authority to Infrapipe to enter any premises occupied by the customer, at any reasonable time, to remove any goods not paid for in full by the customer. Infrapipe shall not be liable for costs, damages, or expenses or any other losses incurred by the customer or any third party as a result of this action, nor liable in contract or in tort or otherwise in any way whatsoever.

13. RETURN OF GOODS

13.1 The customer shall be deemed to have accepted the goods unless the customer notifies Infrapipe otherwise within seven days of delivery of the goods to the customer. The customer must first obtain the written consent of Infrapipe before return of any goods is accepted and Infrapipe reserves the right to decline any request for return by the customer.

13.2 If the goods are not accepted according to clause 13.1 of this contract the customer shall pay for the delivery of the returned goods to Infrapipe whereby the customer shall be entitled to a credit for the purchase price of any such goods provided that they are in the same clean, original and un-used condition as they were at the time of sale and suitable in all respects for resale and the customer shall be liable to incur a 20% re-stocking fee.

13.3 No custom made goods or non-stock items shall be returned by the customer.

14. LIABILITY

14.1 Except as otherwise provided by statute Infrapipe shall not be liable for;

14.2 Any loss or damage of any kind whatsoever whether suffered or incurred by the customer or another person whether such loss or damage arises directly or indirectly from goods or services or advice provided by Infrapipe to the customer and without limiting the generality of the foregoing of this clause Infrapipe shall not be liable for any consequential loss or damage of any kind including without limitation any financial loss; and

14.3 Except as provided in this contract Infrapipe shall not be liable in contract, or in tort, or otherwise for any loss, damage, or injury beyond the value of the goods provided by Infrapipe to the customer; and

14.4 In the case of "labour only" work were goods are supplied by the customer, Infrapipe shall not be liable for any damage, loss or injury of any kind whatsoever however suffered or incurred whether such loss, damage or injury arises directly or indirectly from services or advice provided by Infrapipe and without limiting the generality of the foregoing of this clause Infrapipe shall not be liable for any consequential loss or damage of any kind including without limitation any financial loss and except as provided for in this contract Infrapipe shall not be liable in contract or in tort or otherwise for any loss, damage or injury beyond the value of the services provided by Infrapipe to the customer. In such circumstances, Infrapipe may, at its absolute discretion elect to re perform the services but is not responsible in any way nor will it accept liability for the cost of or replacement of the materials supplied by the customer.

14.5 The customer shall indemnify Infrapipe against all claims 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 Infrapipe or otherwise, brought by any person in connection with any matter, act, omission, or error by Infrapipe, its agents or employee in connection with the goods.

14.6 It is the obligation of the Customer to ensure that at all times all ground and/or site conditions within which Infrapipe is required to operate shall be such as to ensure that Infrapipe can fully and effectually discharge its contractual obligations to the Customer and Infrapipe shall not be liable for faults or defects in any work performed by it as a consequence of a failure by the Customer to meet its obligations under this subclause.

15. CONSUMER GUARANTEES ACT

15.1 The guarantees contained in the Consumer Guarantees Act 1993 ("CGA") are excluded where the customer acquires goods or services from Infrapipe for the purpose of a business in terms of section 2 and 43 of the CGA.

15.2 The customer shall indemnify Infrapipe against all claims of any kind whatsoever however caused or arising as a result of any alteration to or modification of the pipes and fittings or installation carried out by or at the request or direction of the customer and in respect of which Infrapipe has not given its prior written approval.

16. WARRANTY

16.2 No representation, condition, warranty or premise expressed or implied by law or otherwise applies to goods except where goods are supplied pursuant to the CGA or except where expressly stated in this contract.

17. CANCELLATION

17.1 Infrapipe shall, without any liability, and without any prejudice to any other right it has in law or equity, have the right by notice to suspend or cancel in whole or in part any contract for the supply of goods to the consumer if the customer fails to pay any money owing after the due date or the customer commits an act of bankruptcy as defined under sections 17 to 28 of the Insolvency Act 2006 or is in default, see clause 8.

17.2 Any cancellation or suspension under clause 17.1 of this agreement shall not affect Infrapipe's claims for money due at the time of cancellation or suspension or for damages for any breach of terms of this contract or the customer's obligation to Infrapipe under this contract.

18. MISCELLANEOUS

18.1 The customer shall not assign all or any of its rights or obligations under this contract without the written consent of Infrapipe.

18.2 Infrapipe shall not be liable for delay or failure to perform its obligations if the cause of the delay or failure is beyond its control.

18.3 Failure by Infrapipe to enforce any of the terms and conditions contained in this contract shall not be deemed to be a waiver of any of the rights or obligations Infrapipe has under this contract.

18.4 The law of New Zealand shall apply to this contract except to the extent expressly negative or varied by this contract.

18.5 Where terms of this contract are at variance with the order or instruction from the customer, this contract shall prevail.

18.6 If the customer is a company or trust, the director(s) or trustee(s) signing this contract jointly and severally guarantee to Infrapipe the payments of the balance of the customers credit facility from time to time, and the payment of any and all other monies now or hereafter owed by the customer to Infrapipe. Any personal guarantee made by any party shall not exclude the customer in any way whatsoever from the liabilities and obligations contained in this contract. The guarantors and customer shall be jointly and severally liable under the terms and conditions of this contract.

18.7 If any provision of this contract shall be invalid, void or illegal or unenforceable the validity existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

18.8 The Customer expressly acknowledges that any contract or agreement entered into between it and Infrapipe, or any agreement incorporating any part of any contract or tender document of Infrapipe (including but not limited to any Schedule of Prices and Daywork Rates) shall be deemed to have incorporated these terms and conditions of Trade as if they were fully set out in such contract or agreement.

19. PIPEWORK

19.1 All site work is billed at our quoted hourly rate. All site charges are the customer's responsibility and are billed at Infrapipe appropriate hourly rate.

20. DISPUTES

20.1 If any dispute arises between Infrapipe and the customer as to the interpretation or operation of any provision of, or the rights or obligations of either party under, the terms and conditions, the parties shall use their best endeavours in a spirit of good faith to resolve such dispute, but, if such resolution is not achieved within a reasonable period, Infrapipe reserves the right to refer the matter in dispute to mediation/ arbitration. The mediator or arbitrator is to be appointed by the parties on agreement, or if they are unable to agree on that appointment, to be selected and appointed by Infrapipe. Costs of the mediation/ arbitration shall be shared equally by Infrapipe and the customer.

21. FORCE MAJEURE

21.1 Infrapipe shall not be liable for failure or delay to perform any term of this contract, occasioned directly or indirectly, by any act of god, force of nature, natural or man-made event, labour restrictions or other causes whatsoever (whether similar or not to the forgoing) beyond Infrapipe.