



TRADE AND
DESIGN
ACCOUNT
TERMS AND
CONDITIONS

1 WHO ARE THE PARTIES

In these Terms and Conditions:

- (a) **ABI** means ABI Interiors Pty Ltd (ABN 22 612 741 385), 45 City Link Drive, Carrara QLD 4211. All notices to ABI must be via email to trade@abiinteriors.com.au.
- (b) **Applicant** means a person or Organisation who meets the criteria listed in clause 2.1 (Who can apply for a Trade and Design Account). All notices to an Applicant must be to the email on their application form.
- (c) **Approved Account** means an Applicant whose application for a Trade and Design Account has been approved by ABI. All notices to the Approved Account must be to the email on their Trade and Design Account.

2 APPLYING FOR A TRADE AND DESIGN ACCOUNT

2.1 Who can apply for a Trade and Design Account

To be eligible to apply for a Trade and Design Account, the Applicant must:

- (a) agree and accept these Terms and Conditions;
- (b) have an ABN;
- (c) operate a trade or design business which requires the purchase of goods or materials for incorporation into building, trade or design; and
- (d) has not contracted with ABI under any of ABI's Retail or Trade (Display Home) programs.

2.2 How to apply for an account

- (a) To apply for a Trade and Design Account, an Applicant must complete ABI's online application form.
- (b) ABI will assess the application and may accept or reject the application at its sole discretion.
- (c) If approved, ABI will notify the Applicant by email with the details of their Trade and Design Account.

3 HOW TO ORDER

3.1 How to place an order

An Approved Account can place an Order via:

- (a) logging into their Trade and Design Account on the Website;
- (b) adding Products to their cart;
- (c) outlining their delivery preference, whether the Products are to be collected directly from ABI or delivered, and if delivered, providing the correct delivery address for the Order; and
- (d) paying for the Order at checkout in accordance with clause 3.2 (Payment); or
- (e) email:
 - (i) by emailing ABI at trade@abiinteriors.com.au outlining the Products they wish to purchase; and

- (ii) after ABI issues a proforma invoice, paying for the amount in the proforma invoice in accordance with clause 3.2 (Payment).

3.2 Payment

Subject to clause 5 (Major Projects), the Approved Account must pay ABI:

- (a) the Price less the Trade and Design Account Discount (the **Supply Price**); or
- (b) for Sale Products, the Price less the greater of the Trade and Design Account Discount or the Consumer Discount, plus the delivery costs, as set out in clause 3.4 (Delivery costs).

3.3 Price update

- (a) The Approved Account acknowledges and agrees that ABI may update the Price on 30 days' written notice to the Approved Account.
- (b) The parties acknowledge and agree that:
 - (i) Price variations will only apply to Orders that have not been confirmed in accordance with clause 3.6 (Order confirmation), by the date set out in ABI's notice described in clause 3.3(a) and will not apply to confirmed Orders; and
 - (ii) the Approved Account is under no obligation to place an Order with ABI where it does not agree with a varied price.

3.4 Delivery costs

- (a) ABI will pay for standard delivery costs (not including Free Shipping Excluded Products) if the Order's total value meets the Free Shipping Threshold, calculated:
 - (i) after discounts are applied; and
 - (ii) after removing the cost of any Free Shipping Excluded Products.
- (b) The Approved Account pays all other delivery costs, including express shipping and delivery of Free Shipping Excluded Products.

3.5 Invoices

- (a) ABI will give the Approved Account a valid invoice for the Supply Price when it confirms an Order.
- (b) An invoice delivered under this clause will:
 - (i) be a valid tax invoice for the purposes of the GST Act;
 - (ii) include the number of the relevant Order;
 - (iii) contain a description of the Products in that confirmed Order; and
 - (iv) outline the basis of calculation of the amount set out in the invoice.

3.6 Order confirmation

If the Approved Account complies with its obligations under these Terms and Conditions, ABI will:

- (a) confirm the Order via email; and

Terms and Conditions

- (b) supply the Products in the confirmed Order.

3.7 Discontinued products and substitution

- (a) ABI may substitute a Product if it is discontinued or unavailable.
- (b) ABI will notify the Approved Account reasonably in advance of any discontinued or unavailable product and in any event, prior to substituting a Product.
- (c) On receipt of a notice under clause 3.7(b), the Approved Account may elect to amend the Order or remove the discontinued or unavailable products.

3.8 Exclusions

- (a) The Approved Account cannot use other discount codes or coupons when placing an Order.
- (b) Products purchased from ABI using the Trade and Design Account Discount must only be used for the Approved Account's own building, trade, or design projects.

4 GST

4.1 Definition

Expressions defined in the GST Act have the same meaning when used in this clause 4.

4.2 Payments exclusive of GST

Unless otherwise stated, all amounts payable by one party to another party in connection with these Terms and Conditions are exclusive of GST.

4.3 GST payment

- (a) If GST is imposed or payable on any supply made by a party in connection with these Terms and Conditions, the recipient of the supply must pay to the supplier of the supply, in addition to the GST exclusive consideration for that supply, an additional amount equal to the GST exclusive consideration multiplied by the prevailing GST rate.
- (b) A party's right to payment under clause 3.2 (Payment) is subject to a valid tax invoice being delivered to the party liable to pay for the taxable supply.

5 MAJOR PROJECTS

5.1 Application of this clause

- (a) This clause 5 applies to Purchase Orders for Major Projects.
- (b) To the extent of any inconsistency between this clause 5 and the remainder of these Terms and Conditions, this clause 5 prevails in respect of Purchase Orders.

5.2 Deposit

- (a) ABI will hold pricing for Products in a Purchase Order for 6 months, without requiring a Deposit.
- (b) If the Approved Account wants to secure the Products in the Purchase Order or if the Purchase Order extends beyond 6 months, the Approved Account must pay the Deposit.
- (c) ABI will return the Deposit if:
 - (i) ABI cancels the Purchase Order; or
 - (ii) the Approved Account cancels the Purchase Order because Products are unavailable or discontinued.
- (d) If the Approved Account cancels the Purchase Order in any other circumstances after paying the Deposit:
 - (i) ABI will keep the Deposit; and
 - (ii) ABI will give the Approved Account store credit equal to the Deposit's value.

5.3 Adjustments and amendments

- (a) The Approved Account may request an amendment to a Purchase Order before dispatch by written request to ABI.
- (b) ABI may refuse a requested amendment to a Purchase Order.
- (c) A requested amendment has no effect until ABI confirms the amendment in writing.
- (d) If an amendment increases the total price of the Purchase Order by more than 5%, the Approved Account must, within 10 Business Days of ABI confirming the amendment, pay ABI an additional deposit so that the total deposit paid equals the Deposit calculated on the updated total Purchase Order value. If the Approved Account fails to pay the additional deposit within this time, ABI will treat the amendment as withdrawn and suspend dispatch until payment is received.

5.4 Custom orders

- (a) ABI may, at its discretion, agree to supply Products made to the Approved Account's custom specifications (**Custom Order**).
- (b) A request for a Custom Order must be made in writing and include full specifications for the Products required.
- (c) A Custom Order is only binding once ABI confirms it in writing.
- (d) The Approved Account must pay 100% of the Price for a Custom Order upfront, unless otherwise agreed with ABI.
- (e) Once confirmed, a Custom Order cannot be cancelled, amended, or refunded, except where required by law.
- (f) ABI is not liable for any error in a Custom Order that results from incorrect or incomplete specifications provided by the Approved Account.

5.5 Fulfilment, payment and delivery

- (a) The Approved Account must pay for a Purchase Order in full before ABI dispatches the Products.
- (b) The Approved Account may collect the Purchase Order from ABI or ABI will deliver the Purchase Order to the address designated in the relevant Purchase Order.

5.6 Change of mind returns

- (a) ABI's standard Returns for Trade and Retail Change of Mind Policy does not apply to Purchase Orders or Custom Orders.
- (b) The Approved Account may request a return for change of mind on a Purchase Order or Custom Order by written request to ABI, which ABI can accept or refuse at its discretion.

6 FAULTY PRODUCTS, CONSUMER GUARANTEES AND EXCHANGES

6.1 Inspection

- (a) Upon delivery of the Products, the Approved Account must sign for the Products, and must:
 - (i) inspect the Products;
 - (ii) check that the Products conform with the Order, are not damaged and have all their components included in its packaging;within 3 days of delivery.
- (b) If a Product is in any way damaged or is missing any components the Approved Account:
 - (i) must not resupply the Product; and
 - (ii) must contact ABI via the warranty portal or at help@abiinteriors.com.au within 3 days of delivery.

6.2 Installation

The Approved Account must ensure that when installing the Products:

- (a) the Products are installed in accordance with ABI's Installation Guidelines and any other installation instructions accompanying the Products; and
- (b) the Products are otherwise installed in accordance with all applicable national and state standards and regulations, including any relevant Australian Standards.

6.3 What if the Product is faulty

If the Approved Account becomes aware that any Products are faulty, it must notify ABI as soon as practicable.

6.4 What are the Consumer Guarantees

The Approved Account acknowledges that:

- (a) the Products come with guarantees that cannot be excluded under the Australian Consumer Law (**Consumer Guarantees**);
- (b) ABI must comply with its obligations under the Australian Consumer Law in respect of the Consumer Guarantees; and
- (c) in addition to the Consumer Guarantees, ABI provides the Combined Additional Warranty in respect of the Products. The Combined Additional Warranty does not diminish ABI's obligations in respect of the Consumer Guarantees.

6.5 What happens if an End Customer changes their mind?

- (a) The Approved Account is responsible for handling all change-of-mind returns, refunds, and exchanges from End Customers, at its own premises, its own cost, and under its own returns policy.
- (b) End Customers are not eligible to make a return for change of mind under ABI's Returns for Change of Mind Policy.

7 LIABILITY

7.1 Liability

The parties agree that ABI will not be liable for any Loss which arises from:

- (a) any breach of these Terms and Conditions by the Approved Account;
- (b) any act or omission of the Approved Account in performing its obligations under these Terms and Conditions, including damage suffered to the Products or the End Customer's home build during the transport or installation of the Products by the Approved Account.

7.2 Consequential loss

Despite anything to the contrary in these Terms and Conditions, no party will be liable to any other party for Consequential Loss, whether by way of indemnity, by reason of any breach of these Terms and Conditions, in tort or otherwise.

8 TERMINATION

8.1 Termination for convenience

Either party may terminate these Terms and Conditions at any time by written notice to the other party. If the Approved Account gives this notice, ABI will close the Approved Account's Trade and Design Account.

8.2 Termination for breach

Either party may terminate these Terms and Conditions by written notice to the other party if the other party:

- (a) breaches any of these Terms and Conditions and fails to remedy that breach within 14 Business Days of being notified, if the breach is capable of remedy; or
- (b) breaches any of these Terms and Conditions in a way that is not capable of remedy, in which case the non-breaching party may terminate immediately.

8.3 Consequences of termination

From the effective date of termination:

- (a) ABI will close the Approved Account's Trade and Design Account; and
- (b) the Approved Account will no longer be eligible to use the Trade and Design Account Discount or the Trade and Design Account login.

9 WHO OWNS INTELLECTUAL PROPERTY RIGHTS?

- (a) Subject to clause 9(b), ABI grants the Approved Account a non-exclusive, non-assignable, revocable, royalty-free licence to use ABI's Marketing Material solely to:
 - (i) identify the Approved Account as an authorised trade partner or stockist of ABI's Products; and
 - (ii) otherwise perform its obligations under these Terms and Conditions, **(Licence)**, and for no other purpose.
- (b) The Approved Account must not use ABI's Marketing Material, including any ABI trademark or logo, unless:
 - (i) it has obtained ABI's prior written approval for the specific use (including the format, platform and context of that use); and
 - (ii) that use complies with any brand guidelines issued by ABI from time to time.
- (c) ABI may revoke or suspend the Licence, or withdraw its approval for any specific use under clause 9(b), at any time by written notice to the Approved Account, without needing to terminate these Terms and Conditions or the Trade and Design Account.
- (d) The Licence continues until the earlier of:
 - (i) ABI revoking the Licence under clause 9(c); or
 - (ii) these Terms and Conditions or the Trade and Design Account being terminated, at which point it immediately ends.
- (e) On the Licence ending for any reason, the Approved Account must, within 14 days:
 - (i) remove all ABI trademarks, logos and other Marketing Material from its website, social media accounts, marketing materials and any other platform under its control; and
 - (ii) provide written confirmation to ABI that it has done so.
- (f) The Approved Account must not:
 - (i) grant any right, licence or authority to any third party to use ABI's Marketing Material in relation to any goods or services;
 - (ii) apply for, register, or attempt to register, any trade mark, business name, domain name or other right that is identical or confusingly similar to any of ABI's Marketing Material; or
 - (iii) use ABI's Marketing Material in any manner that is disparaging, misleading, or inconsistent with ABI's brand or reputation.
- (g) The Approved Account must notify ABI promptly if it becomes aware of any actual or suspected infringement, misuse or unauthorised use of ABI's Marketing Material by a third party, and must reasonably cooperate with ABI (at ABI's cost) in any action ABI takes to enforce its rights.

10 CONFIDENTIALITY

- (a) Subject to clause 10(c), a party must not disclose any Confidential Information of the other party to any person without the prior written consent of the other party, unless and until:
 - (i) the information becomes generally available to the public through no action, default or other breach by the party wishing to disclose it; or
 - (ii) the party is required by law to make the disclosure, and then only to the extent required.
- (b) Each party must keep all documents and other material containing or incorporating any Confidential Information of the other party in safe custody.
- (c) Each party may disclose Confidential Information to those of its representatives who need the information, and only to the extent needed, to enable that party to fulfil its obligations under these Terms and Conditions.

11 PRIVACY

11.1 Handling Personal Information

Each party must, for Personal Information it collects under these Terms and Conditions:

- (a) comply with the Privacy Legislation;
- (b) collect it as required by these Terms and Conditions and as directed by the other party from time to time;
- (c) use it only for the purposes of these Terms and Conditions; and
- (d) not transfer it outside Australia without the other party's prior written consent.

11.2 Data breaches

- (a) If a party identifies actual or suspected unauthorised access to, unauthorised disclosure of, or loss of, Personal Information held by the party for the purposes of these Terms and Conditions **(Breach)**, that party must:
 - (i) immediately take any measures necessary to prevent the recurrence or continuation of the Breach;
 - (ii) notify the other party of the Breach, including:
 - (A) full details of the manner in which the Breach occurred;
 - (B) the type of information affected by the Breach; and
 - (C) any security measures applied to the Personal Information affected by the Breach;
 - (iii) assist and cooperate with the other party in investigating the Breach; and
 - (iv) provide all information reasonably requested by the other party in connection with the Breach.
- (b) The party that disclosed the affected Personal Information is solely responsible for making any notification of a Breach required by law, unless the parties agree otherwise.

12 MISCELLANEOUS

12.1 Amendments

- (a) ABI may amend these Terms and Conditions at any time by giving the Approved Account at least 30 days' written notice by email.
- (b) An amendment takes effect from the date specified in ABI's notice (**Effective Date**).
- (c) An amendment applies only to Orders, Purchase Orders and Custom Orders placed on or after the Effective Date.
- (d) All Orders, Purchase Orders and Custom Orders placed before the Effective Date continue to be governed by the Terms and Conditions as they stood immediately before the amendment.
- (e) If the Approved Account does not agree with an amendment, it may terminate these Terms and Conditions in accordance with clause 8.1 (Termination for convenience) before the Effective Date.

12.2 Assignment

A party cannot assign or otherwise transfer any of its rights under these Terms and Conditions without the prior written consent of each other party.

12.3 Construction

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on, these Terms and Conditions or any part of it.

12.4 Entire agreement

These Terms and Conditions constitute the entire agreement between the parties in relation to its subject matter and supersede all previous agreements, negotiations and understandings between the parties in relation to its subject matter.

12.5 Relationships

Except where these Terms and Conditions expressly state otherwise, it does not create a relationship of employment, trust, agency, fiduciary or partnership between the parties.

12.6 Severance

A term or part of these Terms and Conditions that is illegal or unenforceable is severed from these Terms and Conditions and the rest of these Terms and Conditions continue in force.

13 GOVERNING LAW

These Terms and Conditions are governed by the laws of Queensland and each party submits to the non-exclusive jurisdiction of the courts of Queensland.

PART A: DEFINED TERMS AND INTERPRETATION

14 DEFINED TERMS

Capitalised terms in these Terms and Conditions have the meanings given to them in clause 1 (Who are the parties) and below:

Australian Consumer Law means Schedule 2 to the *Competition and Consumer Act 2010* (Cth).

Australian Standards means the set of specifications and guidelines established by Standards Australia to ensure quality, safety and compatibility across various products and services.

Business Day means any weekday on which banks are generally open for business in Gold Coast, Queensland.

Combined Additional Warranty means ABI's warranty located on the Website at <https://www.abiinteriors.com.au/help-centre/warranty-and-product-enquiry/>.

Confidential Information means any information (regardless of form) disclosed or otherwise made available by one party to the other party for, or in connection with, these Terms and Conditions, including information that:

- (a) is marked as being proprietary or confidential to the disclosing party; or
- (b) because of the nature of the information, or the circumstances surrounding its disclosure, ought in good faith be treated as confidential.

Consequential Loss means any indirect or consequential loss, damage, liability, cost or expense (including loss of profits, loss of revenue, interruption of business or loss of use) arising out of, or in connection with, these Terms and Conditions, whether arising in contract, tort (including negligence), under statute or otherwise.

Consumer Discount means a discount that ABI applies to the Price of a Product when selling directly to its own customers.

Custom Order has the meaning given in clause 5.4 (Custom orders).

Deposit means 30% of the total value of the Purchase Order.

End Customer means a third party who purchases Products from the Approved Account.

Free Shipping Excluded Products means tiles and mosaics.

Free Shipping Threshold means \$1,000.

GST has the meaning given in the GST Act.

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and the related imposition Acts of the Commonwealth.

Installation Guidelines means the installation instructions provided with an ABI Product.

Loss means any damage, loss, cost, claim, liability or expense.

Marketing Material means ABI's trademarks and the copyright in ABI's training and marketing materials, including the Media Catalogue.

Media Catalogue means ABI's approved images for use on social media.

Order means an order for Products placed by the Approved Account in accordance with clause 3.1 (How to place an order).

Organisation means an entity that carries on business in Australia, including a company, partnership, sole trader or trust.

Personal Information has the meaning given in the Privacy Act.

Price means the recommended retail price, as determined by ABI.

Privacy Act means the *Privacy Act 1988* (Cth).

Privacy Legislation means the Privacy Act and any other legislation regarding privacy in force from time to time that applies to the parties.

Products means ABI's current and future products, but excludes colour samples.

Purchase Order means an order which relates to a single project with a value exceeding \$50,000 and a build time of at least 6 months, placed by the Approved Account and accepted by ABI in writing.

Sale Product means a Product to which ABI has applied a Consumer Discount.

Supply Price has the meaning given in clause 3.2 (Payment).

Trade and Design Account means an account that entitles the Approved Account to a Trade and Design Account Discount.

Trade and Design Account Discount means the discount offered by ABI to the Approved Account.

Trade and Retail Change of Mind Policy means the policy located on the Website at <https://www.abiinteriors.com.au/help-centre/#tab2>Returns>.

Website means ABI's website located at <https://www.abiinteriors.com.au/>.

15.4 Linguistic choices

- (a) A reference to the singular includes the plural and the plural includes the singular.
- (b) "Including" and similar expressions are not words of limitation.
- (c) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.

15.5 Money

- (a) A reference to money is to Australian dollars, unless otherwise stated.
- (b) Unless otherwise stated in these Terms and Conditions, all amounts payable by one party to another party are exclusive of GST.

15.6 Trustees

If a party which is a trustee of a trust:

- (a) is bound in its personal capacity and in its capacity as trustee; and
- (b) by executing these Terms and Conditions confirms that it:
 - (i) has authority under the relevant trust deed to enter into these Terms and Conditions; and
 - (ii) is entitled to be indemnified out of the assets of the trust.

15 INTERPRETATION

15.1 Documents

- (a) A reference to a clause, annexure, part or schedule is a reference to a clause, annexure, part in or schedule to these Terms and Conditions.
- (b) Headings are for convenience only and do not form part of these Terms and Conditions or affect its interpretation.
- (c) A reference to a document (including these Terms and Conditions) includes all amendments, replacements or supplements to that document.

15.2 Law

A reference to law means a reference to:

- (a) principles of law or equity established by decisions of courts;
- (b) statutes, regulations or by-laws of the Commonwealth, a State, a Territory or a government agency; and
- (c) requirements and approvals (including conditions) of the Commonwealth, a State, a Territory or a government agency that have the force of law.

15.3 Legislation

A statute, ordinance, code or other legislation includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them.