

CREDIT APPLICATION FORM

This credit application contains terms and conditions governing each supply goods and services by MacArthur Engineering & Sheetmetal 2009 Limited ("MacArthur") to you ("Customer").

By signing this credit application the Customer (and any person signing as guarantor below):

- Undertakes certain obligations and grants to MacArthur certain rights in relation to present and after acquired goods ("Goods") that MacArthur supplies to the Customer from time to time: and
- Agrees that the terms of trade printed overleaf govern all supplies of Goods and services by MacArthur to the Customer.

CUSTOMER

Customer Name (If an individual, include full name. If a Company or other body corporate include name in constituting document. If a partnership or trust include partnership or trust name)			
Identification Number (If an individual complete date of birth. If a Company or other body corporate include registered number)			
Trading Name (If different from above)			
Postal Address			
Delivery Address			
Telephone No:		Fax No:	
Accounts Person		E-Mail Address	

DIRECTORS/PARTNERS/TRUSTEES

Name	Street Address

Bank:		Branch:	
Accountant:		Solicitor:	

MacArthur Engineering & Sheetmetal 2009 Limited
 789 Te Rapa Rd, PO Box 19226, Hamilton
 Phone + 64 7 849 4985 Fax + 64 7 850 8409 Email engineering@macarthurengineering.co.nz
www.macarthurengineering.co.nz

TRADE REFERENCES (3 required)

Name	Phone Number	Street Address

Please Read the Terms and Conditions and Sign Overleaf as they are the terms of the supply of goods and services by MacArthur to the Customer.

TERMS AND CONDITIONS OF SUPPLY

1. Payment Date

Full payment for all Goods and services supplied by MacArthur to the Customer (as set out on the relevant invoice) must be made by the 20th of the month following receipt of the invoice ("due date").

2. Default payments and indemnity

The Customer undertakes to pay for all Goods and services in full on or before the due date. If full payment is not made by the due date, the Customer undertakes to pay late fees of 2.5% per month on the amount outstanding from the due date until the date of payment in full, and to indemnify MacArthur against all costs and expenses which MacArthur may incur recovering from the Customer any overdue amount.

3. Privacy Act 1993

The information overleaf may be used for marketing and credit assessment purposes. The Customer authorises any person to provide MacArthur with such information concerning the Customer, or its credit worthiness as MacArthur may require and also authorises MacArthur to furnish to any third party details of this application, and any failure to comply with these terms of supply. The Privacy Act 1993 gives the Customer the right to see and correct any information provided to MacArthur.

4. Retention of Title

4.1 Application: This clause will apply until the Personal Property Securities Act 1999 comes into force.

4.2 Ownership: Legal and beneficial ownership ("Ownership") of all Goods will remain with MacArthur until MacArthur has received payment in full for all Goods and services and for all indebtedness of the Customer to MacArthur on any other account.

4.3 Bailee: While Ownership of the Goods remains with MacArthur, the Customer shall hold the Goods as bailee for MacArthur and may deal with the Goods only with the prior written approval of MacArthur. Such approval is, subject to clause 4.5, given for any dealing with the Goods by the Customer in the ordinary course of the Customer's business.

4.4 Trust created: In consideration of MacArthur agreeing to supply Goods on these terms of supply, upon a sale of any Goods by the Customer the proceeds of such sale in whatever form ("Proceeds") shall, from the moment of their creation, be subject to a trust whereby the Customer shall be the trustee and MacArthur and the Customer shall be the beneficiaries and in respect of which:

- The beneficial interest of MacArthur shall be in that portion of the Proceeds which will enable full or, to the extent of such Proceeds at any given time, partial payment of any money owing by the Customer to MacArthur (whether in respect of the Goods or otherwise); and
- The beneficial interest of the Customer shall be in the balance of the Proceeds (if any).

4.4 Separate bank account: MacArthur may require the Customer to keep all or some Proceeds in a bank account separate from the Customer's trading account and the Customer will comply with all directions of MacArthur in this regard.

4.5 **Termination of approval:** If:

- The Customer agrees or purports to assign an ownership interest in any Proceeds comprising book debts;
- The Customer enters, or attempts to enter, into any arrangement with its creditors without the prior written approval of the MacArthur;
- A receiver is appointed in respect of the Customer's business or any of its assets; or
- There is commenced by any means a process to liquidate the Customer or its business or assets,

The Customer shall no longer be carrying on business in the ordinary course and the approval of MacArthur under clauses 4.3 shall immediately terminate without the need for any notice.

4.6 **Licence to enter:** The Customer hereby gives MacArthur the right to enter upon the Customer's premises and locate and uplift any Goods in which the legal and equitable ownership remains with MacArthur.

5. **Personal Property Securities Act 1999**

5.1 **Application:** This clause will apply on and from the date the Personal Property Securities Act 1999 comes into force.

5.2 **Security interest:** The Customer grants to MacArthur a security interest in the Goods and any other Goods subsequently acquired from MacArthur as security for payment in full of the purchase price of the Goods and all other amounts payable to MacArthur (whether pursuant to these terms of supply or under any invoice relating to the supply of Goods or any other Goods subsequently acquired or services by MacArthur to the Customer) and for the due and proper performance by the Customer of all of its other obligations to MacArthur.

5.3 **Registration:** MacArthur may register a financing statement and/ or a financing change statement at the Customer's cost. The Customer will provide all information to ensure that MacArthur will have a protected security interest in all Goods supplied prior to and after the date on which the Personal Property Securities Act comes into force.

5.4 **Verification statement waiver:** The Customer waives its right to receive a copy of any verification statement confirming registration of any financing statement or financing change statement relating to the security interest or interests created by or pursuant to these terms of supply.

5.5 **Application of proceeds:** MacArthur may allocate all amounts received from the Customer in any manner MacArthur sees fit including (without limiting the generality of the foregoing) to reasonably preserve any purchase money security interest in the Goods.

6. **Warranties**

6.1 **Term:** MacArthur warrants The Goods for a period of 1 year from the date of delivery against any defects in construction or operation. This warranty is limited to those defects arising solely from faulty design, materials or workmanship.

6.2 **Replacement and liability:** Subject to clause 6.1, MacArthur agrees, at its discretion, to modify or replace defective parts or units at its own expense within a reasonable time after it has been given notice of the defect by the Customer. MacArthur's liability shall be limited to the obligations set out above and it shall not be liable for any consequential, special, direct, or indirect loss, damage, harm or injury whether such damage, loss or injury is sustained by Customer or any other person, and whether or not it is sustained by reason of any negligent act by MacArthur or any of its employees, agents or independent contractors. This clause is intended to confer enforceable rights on MacArthur's agents, employees and independent contractors in terms of the Contracts (Privity) Act 1982.

6.3 **Limit on warranty:** This warranty shall not apply when the Customer is in default of any of its obligations under this these terms of supply or when the default arises wholly or partially from any fault on the part of the Customer.

7. **Risk**

Risk in the Goods will pass to the Customer from the earlier of the time on which MacArthur informs the Customer that the Goods are ready for despatch or the time of uplift or delivery of the Goods by or to the Customer.

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8. **Guarantee**

8.1 **Guarantee and indemnity:** Each person who signs below as a guarantor ("Guarantor"), both individually and jointly with each other guarantor:

- Irrevocably and unconditionally guarantees the payment of the price for all Goods and services supplied by MacArthur to the Customer (as shown on the relevant invoice) and all other money due or to become due by the Customer to MacArthur pursuant to these terms of supply and the performance and observance of all covenants and conditions on the party of the Customer in these terms of supply;
- Indemnifies MacArthur from and against any:
 - Liability of MacArthur;
 - Loss, cost, expense or other charge (including legal costs) incurred or sustained by MacArthur;
 - Proceeding, action, claim, demand or other process in any jurisdiction against MacArthur;
 Directly or indirectly arising out of any breach by Customer in the payment for any Goods or services or in complying with any other obligation under these terms of supply; and
- Agrees that clause 3 relating to privacy will apply to the Guarantor as if each reference in that clause to the Customer was a reference to the Guarantor.

8.2 **Principal Debtor:** As between MacArthur and each Guarantor, that the Guarantor will be liable as a principal debtor and obligor and not a mere surety for the payment of all Goods and the compliance with all other obligations of the Customer pursuant to these terms of supply.

8.3 **Separate obligation:** The guarantee and indemnity in this clause shall each constitute separate and independent obligations and shall give rise to separate and independent causes of action and shall continue in full force and effect notwithstanding any judgment, order, claim or proof for any liquidated amount until final payment for all Goods and services supplied to the Customer has been received by MacArthur.

9. **Miscellaneous**

9.1 **Notices:** The Customer undertakes to notify MacArthur in writing of all changes to the Customer's address or contact details overleaf and, pending such notification, MacArthur may send all notices to the address shown overleaf.

9.2 **Interpretation:** In these terms of supply:

- Headings are inserted for convenience only and shall be ignored in construction;
- Any reference to a person include a reference to a corporation and unincorporated body; and
- Any reference to legislation includes that legislation as from time to time amended, re-enacted or substituted

NAME: POSITION:

SIGNATURE: DATE: