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**CREDIT ACCOUNT APPLICATION FORM**

**ENTITY DETAILS**

Full Legal Name of Applicant - *not trading name*

Legal status - *please tick appropriate box*

Sole Trader  Individual  Partnership  Ltd Company  Other - please specify

Trading name  Physical Address

Postal Address  Telephone  Facsimile

**IF LIMITED LIABILITY COMPANY** - Address of Registered Office  Telephone

Contact Name & Position  Nature of Business  Number of Years in Business

Name of any affiliated or Parent Companies

Name and Telephone Number of Accountant

Contact email address for Accounts : \_\_\_\_\_

**OWNERSHIP DETAILS**

	Full name of Owner(s) / Directors	Address	Telephone
1.	<input type="text"/>	<input type="text"/>	<input type="text"/>
2.	<input type="text"/>	<input type="text"/>	<input type="text"/>
3.	<input type="text"/>	<input type="text"/>	<input type="text"/>

**TRADE REFERENCES**

	Company	Contact Name	Telephone Number	Date Account Opened
1.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
2.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
3.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

I/We declare that I am duly authorized to bind the Applicant and certify that the above information supplied on this form is to the best of my knowledge true and correct.

Name  Position  Signature

Dated This  day of  20



# PERFORMANCE TOOLING

## TERMS OF TRADE AGREEMENT

1. **DEFINITIONS**
  - 1.1 "Buyer" means any person, including any person acting on behalf of or with the authority of the Buyer, who buys or agrees to buy Goods or Services from the Seller.
  - 1.2 "Goods" means all goods, chattels or services associated directly with the Goods provided by the Seller including the provision of parts and all charges such as insurance charges and or any fee or charge associated with the supply of Goods and Services by the Seller to the Buyer.
  - 1.3 "Seller" means *Performance Tooling Ltd* - the seller of Goods or Services, or any agents or employees of the Seller authorised to act on its behalf.
  - 1.4 "Services" means any rights, benefits, privileges, or facilities that are provided or are to be provided, granted, or conferred by the Seller to the Buyer.
  - 1.5 "Price" means the cost of the Goods or Services as agreed between the Seller and the Buyer pursuant to clause 4 of this contract.
2. **ACCEPTANCE**
  - 2.1 Any instruction received by the Seller from the Buyer pertaining to the supply of Goods or Services to the Buyer shall constitute acceptance of the terms and conditions contained in this contract.
3. **USE OF INFORMATION**
  - 3.1 The Buyer authorises the Seller to collect, retain, disclose and use any relevant information about the Buyer for the purpose of assessing the Buyer's credit worthiness and enforcing any rights given to either party under this contract.
  - 3.2 Where the Buyer is a natural person the authority given in clause 3.1 ensures compliance on the behalf of the Seller with the Privacy Act 1993.
4. **PRICE AND PAYMENT**
  - 4.1 Where no price is stated in writing or agreed orally the Goods or Services shall be deemed to be sold at the current amount as such Goods or Services are sold for by the Seller at the time of this contract
  - 4.2 Where the price is contained in a quotation that price is subject to clause 5.
  - 4.3 Subject to clause 4.2 payment is due when the Buyer receives the Goods or Services which are the subject of this contract.
  - 4.4 Payment for Goods or Services shall be paid in full by 20<sup>th</sup> month following invoice date ("the due date") where the Buyer has an existing account with the Company or has arranged an account with the Company.
  - 4.5 Interest may be charged on any amount owing after the due date at the rate of 3% per month or part month.
  - 4.6 The Buyer shall be liable to the Seller for any expenses, disbursements and legal costs including costs on a solicitor/client basis and reasonable debt collection agency fees incurred by the Seller in the enforcement against the Buyer of any of the terms and conditions contained in this contract.
  - 4.7 Receipt of any negotiable instrument including cheques and bills of exchange shall not constitute payment until the funds represented by the negotiated instrument has cleared in full.
5. **QUOTATION**
  - 5.1 Where a quote is given by the Seller for the price of Goods or Services the quote shall be:
    - 5.1.1 Valid for one month from the date of issue; and
    - 5.1.2 Exclusive of Goods and Services Tax unless the contrary is stated; and
    - 5.1.3 Able to be withdrawn at any stage by the Seller.
  - 5.2 Where the Seller supplies a quote to the Buyer and the Buyer requires goods in addition to those listed on a quote the Buyer shall notify the Seller in writing of such additional requirements and shall pay the additional costs of such requirements and any other necessary alterations.
6. **RISK**
  - 6.1 The risk in the Goods shall pass from the Seller to the Buyer immediately upon:
    - 6.1.1 Delivery pursuant to clause 6.2 of this contract; or
    - 6.1.2 The transfer of title in the Goods pursuant to clause 8.1 of this contract whether delivery has been made or not.
  - 6.2 Delivery of the goods shall be deemed complete when the Seller gives possession of the Goods for delivery to the Buyer, or possession of the Goods is given to a common carrier, or bailee for the purpose of carriage to the Buyer.
  - 6.3 The time agreed for delivery shall not be an essential term of this contract unless the contrary is indicated in writing.
  - 6.4 Where the Seller delivers Goods to the Buyer by instalments and the Seller fails to deliver one or more of the instalments the Buyer shall not have the right to treat the contract as repudiated.
7. **AGENCY**
  - 7.1 The Buyer authorises the Seller to contract on the Buyer's behalf as either principal or agent for the provision of any Goods that are the subject of this contract.
  - 7.2 Where the Seller enters into a contract as referred to in clause 7.1 of this contract it shall be read alongside of and form part of this agreement and the Buyer shall pay any amount due under such a contract.
8. **TITLE**
  - 8.1 Where the Goods are ascertained and in a deliverable state, title in the Goods shall transfer to the Buyer when the Buyer has made payment in full to the Seller for all Goods and Services supplied.
  - 8.2 Until the Seller receives from the Buyer full payment of the agreed price of the Goods supplied:
    - 8.2.1 Where the Buyer has possession of any Goods supplied by the Seller but has not paid for the Goods or has only paid for the Goods in part, title in the Goods shall remain with the Seller and the Buyer shall hold the Goods in question on trust for the Seller, who remains the fiduciary owner or bailee; and
    - 8.2.2 Where the Goods are affixed whether by screws, electric cables or wires, or by any other means to a building or to land, the degree of annexation shall be deemed minimal and shall not operate to make the goods a fixture and the rights pursuant to clause 8.3 of this contract shall not be affected by such affixing, furthermore, the Seller retains legal and equitable title to the Goods; and
    - 8.2.3 Where the Goods become a constituent of, are mixed with or attached to any other goods, the Buyer shall give to the Seller title to those goods.
  - 8.3 The Buyer irrevocably gives the Seller the authority to enter the Buyer's premises, at a reasonable time following a breach by the Buyer of this contract to remove any Goods not paid for in full by the Buyer. The Seller may in exercising its right of repossession remove the Goods by unscrewing, disconnecting, or severing any means of affixing without the Seller being liable for costs, damages or expenses incurred by the Buyer or any third party as a result of this action. The Seller shall not be liable in either contract or tort when exercising such a right as contained herein.
9. **RETURN OF GOODS**
  - 9.1 Where Goods are delivered to the Buyer, the Buyer shall be deemed to have accepted the Goods unless the Buyer notifies the Seller within 10 working days of delivery of the Goods to advise otherwise.
  - 9.2 If the Goods are not accepted pursuant to clause 9.1 of this contract the Buyer shall pay for the cost of the return of the Goods to the Seller and the Buyer shall be entitled to a credit for the purchase price or part payment of any such Goods.
10. **LIABILITY**
  - 10.1 Except as otherwise provided by statute the Seller shall not be liable for any:
    - 10.1.1 Loss or damage whether suffered or incurred by the Buyer or a person acting on their behalf either directly or indirectly from any Goods, Services or information provided by the Seller to the Buyer. Without limiting the generality of the foregoing of this clause the Seller shall not be liable for any consequential loss or damage of any kind including any financial loss; and
    - 10.1.2 Loss, damage or injury beyond the value of the Goods provided by the Seller to the Buyer either in tort or in contract except as otherwise provided for in this contract.
  - 10.2 The Buyer shall indemnify the Seller against all claims of any kind however caused or arising and without limiting the generality 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 in connection with the provision of Goods or Services.
11. **CONSUMER GUARANTEES ACT**
  - 11.1 The guarantees contained in the Consumer Guarantees Act 1993 are excluded from this contract where the Buyer acquires Goods or Services from the Seller for the purposes of a business transaction in terms of sections 2 and 43 of that Act.
12. **DELIVERY**
  - 12.1 Delivery shall be made to the place indicated on the quote supplied by the Seller to the Buyer. If no such place is specified on the quote, delivery shall be deemed to have been made when the Buyer uplifts the Goods from the Seller's premises.
  - 12.2 Subject to clause 9.1 if the Buyer fails or refuses to take or accept delivery then the Goods shall be deemed to be delivered when the Company was willing to deliver them.
  - 12.3 The Seller reserves the right to deliver the Goods by instalment and each instalment shall be a separate contract subject to the conditions of this contract.
  - 12.4 The expenses of and incidental to completing actual delivery and to putting the Goods into a deliverable state must be born by the Buyer and in the event of delivery taking place other than at the Seller's premises then the mode and method of delivery shall be according to the Seller's standard procedure.
  - 12.5 If the Buyer refuses to take or accept delivery at the time specified in the quote or at such other reasonable time as the Seller is able to deliver the Seller may charge reasonable storage and transport charges whether there is provision for such charges in the quote or not.
  - 12.6 If the Buyer requires the Seller to install any Goods the Buyer shall:
    - 12.6.1 Make its premises and access to its premises available for this purpose immediately upon request from the Seller; and
    - 12.6.2 Provide electricity, extraction and a clear working area for the purpose of installation.
  - 12.7 If the cost of installation is higher than that reasonably anticipated by the Seller at the time of quotation due to structural difficulties or other unforeseen difficulties, the Buyer shall, in addition to the quoted price, pay such additional costs of the installation. The Buyer shall be responsible for obtaining all necessary permits for the installation prior to the delivery date and the Buyer shall indemnify the Seller for any loss, liability or extra expense it incurs as a result of the customer defaulting in its obligations.
13. **WARRANTY**
  - 13.1 No representation, condition, warranty or premise expressed or implied by law applies to the Goods or Services supplied by the Seller to the Buyer except where Goods or Services are supplied pursuant to the Consumer Guarantees Act 1993 or where expressly stated in this contract.
  - 13.2 Pursuant to section 43 of the Consumer Guarantees Act 1993 the fitness for purpose provision of that Act is excluded from this contract. The Seller does not provide any warranty that Goods are fit for the purpose for which the Buyer requires them and the Seller shall not be liable in any way.
  - 13.3 Without limiting the generality of clause 13.2 of this contract the Goods provided by the Seller are warranted to be free from defective workmanship and materials and, any warranty provided by the Seller shall not exceed that given by the manufacturer to the Buyer at the time of purchase or installation.
  - 13.4 The Seller shall have no liability under any warranty for any defect in the Goods arising from:
    - 13.4.1 Inappropriate or unsuitable use; or
    - 13.4.2 The premises, where Goods are installed, becoming unsuitable for the proper functioning of the Goods for any reason that is beyond the control of the Seller; or
    - 13.4.3 Any contribution to malfunction by the Buyer; or
    - 13.4.4 The Buyer or any third party attempting any repairs on the Goods other than in accordance with the Seller's instructions.
  - 13.5 The Buyer shall notify the Seller of any defect that has been or ought to have been reasonably identified within seven days or any warranty pursuant to clause 13.2 of this contract shall be null and void.
  - 13.6 Where there is a warranty provided in writing at the time the Buyer purchases the Goods from the Seller that warranty shall prevail over any warranty contained herein and the warranty pursuant to clause 13.2 shall be specifically excluded.
14. **CANCELLATION**
  - 14.1 The Seller may, without any liability and without prejudice to any other right it has in law or equity, suspend or cancel in whole or in part any contract for the supply of Goods to the Buyer if the Buyer fails to pay any money owing after the due date or the Buyer commits an act of Bankruptcy as defined in section 19 of the Insolvency Act 1967.
  - 14.2 Any cancellation or suspension under clause 14.1 of this contract shall not affect the Seller's claim for any monies due at the time of cancellation or suspension or for damages for any breach by the Buyer of any of the terms and conditions of this contract.
15. **INTELLECTUAL PROPERTY**
  - 15.1 Where the goods are manufactured to the Buyers specification, the Buyer hereby warrants that the manufacture and supply of such goods by the Seller will not infringe an intellectual property right or patent, registered design, trademark, copyright or other proprietary right ("Intellectual Property Right") of any other person. The Buyer indemnifies the Seller against any liability to or action by a third party for infringement or alleged infringement of any Intellectual Property Right.
  - 15.2 Copyright in all drawings, specifications and other technical information provided by the Seller in connection with the contract is vested in the Seller.
16. **SPECIFICATIONS**
  - 16.1 Dimensions and specifications contained or referred to in this contract or in any publications issued by the Seller are estimates only. Unless otherwise expressly agreed in writing. It is not a condition of the contract that the goods will correspond precisely with such dimensions and specifications.
17. **MISCELLANEOUS**
  - 17.1 The Buyer shall not assign any or all of its rights or obligations under this contract without the prior written consent of the Seller.
  - 17.2 The Seller shall not be liable for any delay or failure to perform its obligations under this contract if the delay or failure is beyond the control of the Seller or due to unforeseen circumstances.
  - 17.3 Failure by the Seller to enforce any terms or conditions in this contract shall not be deemed to be a waiver of any of the rights or obligations that the Seller has under this Contract.
  - 17.4 The law of New Zealand shall apply to this contract unless expressly negative or varied.
  - 17.5 Where the terms and conditions of this contract are at a variance with any order or instruction from the Buyer that is not in writing, this contract shall prevail.
  - 17.6 The Buyer shall within seven days from the date of the delivery of Goods notify the Seller in writing of any dispute arising under this contract.
  - 17.7 If any provision of this contract is found to be invalid, void, illegal or unenforceable, the validity and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.