PERMARK INDUSTRIES (AUSTRALIA) PTY LTD

SYDNEY

Permark Industries (Aust.) P/L
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NSW 1470

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sales@permark.com.au

AUCKLAND

Permark Industries Ltd
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AUCKLAND 1741

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MELBOURNE

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permark

CREDIT ACCOUNT APPLICATION FORM

ENTITY DETAILS:

APPLICANT'S FULL LEGAL NAME: .....
(i.e. not trading name "the Customer")

Years in Business: ..... Trading as: .....

Postal Address: .....

Telephone: ....

Physical Address: .....

Fax: ....

Contact Name & Position: .....

ABN No: ..... Email: .....

Estimated Annual Purchases: ☐ <$5000 ☐ $5,000 – $20,000 ☐ $20,000 +

I/We have read and agree to be bound by the terms and conditions of trade as printed overleaf or attached. I/We warrant to Permark Industries (Australia) Pty Ltd that the above information is to the best of my/our knowledge, information and belief true and correct and that I/we am/are duly authorised to enter into this application and future contracts on behalf of the Customer. I/we also acknowledge that pursuant to the personal guarantee contained in the terms and conditions of trade that, where relevant, I/we am/are also signing this application form in my/our personal capacity.

Signed ..... Print Name .....

Dated this ..... day of ..... 20 ..... Designation .....

CASH SALES

We require cash sales to be paid in full with order placement, please select your preferred payment option below – (we will provide a GST invoice)

Direct Credit ❑

BANK: NAB
BRANCH: Balmain
ACCOUNT NAME: Permark Industries (Australia) PTY LTD
BSB No: 082057
ACCOUNT NUMBER: 468740725 (Please use Invoice No as our reference)

Credit Card (Visa/Mastercard/Dinners) ❑

Card No: .....

Exp: ...../..... MM/YY)

Name on Card: .....

Cheque ❑

TERMS & CONDITIONS OF TRADE

1. DEFINITIONS

1.1 "Permark" shall mean Permark Industries Ltd or Permark Industries (Australia) Pty Ltd (as the case may be), or any agents or employees thereof.

1.2 "Customer" shall mean the Customer, any person acting on behalf of and with the authority of the Customer, or any person purchasing products and services from Permark.

1.3 "Goods" shall mean:

1.3.1 all Goods of the general description specified on the front of this agreement and supplied by Permark to the Customer; and

1.3.2 all Goods supplied by Permark to the Customer; and

1.3.3 all inventory of the Customer that is supplied by Permark; and

1.3.4 all Goods supplied by Permark and further identified in any invoice issued by Permark to the Customer, which invoices are deemed to be incorporated into and form part of this agreement; and

1.3.5 all Goods that are marked as having been supplied by Permark or that are stored by the Customer in a manner that enables them to be identified as having been supplied by Permark; and

1.3.6 all of the Customer's present and after-acquired Goods that Permark has performed work on or to or in which goods or materials supplied or financed by Permark have been attached or incorporated.

1.3.7 The above descriptions may overlap but each is independent of and does not limit the others.

1.4 "Goods and Services" shall mean all goods, products, services and advice provided by Permark to the Customer.

1.5 "Price" shall mean the cost of the Goods and Services as agreed between Permark and the Customer and includes all disbursements eg charges Permark pay to others on the Customer's behalf subject to clause 4 of this contract.

2. ACCEPTANCE

2.1 Any instructions received by Permark from the Customer for the supply of Goods and Services shall constitute a binding contract and acceptance of the terms and conditions contained herein.

3. COLLECTION AND USE OF INFORMATION

3.1 The Customer authorises Permark to collect, retain and use any information about the Customer, for the purpose of assessing the Customer's credit worthiness, enforcing any rights under this contract, or marketing any Goods and Services provided by Permark to any other party.

3.2 The Customer authorises Permark to disclose any information obtained to any person for the purposes set out in clause 3.1.

3.3 Where the Customer is a natural person the authorities under clauses 3.1 and 3.2 are authorities or consents for the purposes of the Privacy Act 1993.

4. PRICE

4.1 Where no price is stated in writing or agreed to orally the Goods and Services shall be deemed to be sold at the current amount as such Goods and Services are sold by Permark at the time of the contract.

4.2 The price may be increased by the amount of any reasonable increase in the cost of supply of the Goods and Services that is beyond the control of Permark between the date of the contract and delivery of the Goods and Services.

4.3 The price of the Goods and Services will be plus the rate of Goods and Services Tax applicable at the time of invoice

5. PAYMENT

5.1 Payment for Goods and Services shall be made in full on or before the 20th day of the month following the date of the invoice ("the due date").

5.2 Interest may be charged on any amount owing after the due date at the rate of 2.5% per month or part month.

5.3 Any expenses, disbursements and legal costs incurred by Permark 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.

5.4 Receipt of a cheque, bill of exchange, or other negotiable instrument shall not constitute payment until such negotiable instrument is paid in full.

5.5 A deposit may be required.

6. QUOTATION

6.1 Where a quotation is given by Permark for Goods and Services:

6.1.1 Unless otherwise agreed the quotation shall be valid for thirty (30) days from the date of issue; and

6.1.2 The quotation shall be exclusive of goods and services tax unless specifically stated to the contrary;

6.1.3 Permark reserve the right to alter the quotation because of circumstances beyond its control.

6.2 Where Goods and Services are required in addition to the quotation the Customer agrees to pay for the additional cost of such Goods and Services.

7. RISK

7.1 The Goods and Services remain at Permark's risk until delivery to the Customer.

7.2 Delivery of Goods and Services shall be deemed complete when Permark gives possession of the Goods and Services directly to the Customer or possession of the Goods and Services is given to a carrier, courier, or other bailee for purposes of transmission to the Customer.

8. TITLE AND SECURITY (PERSONAL PROPERTY SECURITIES ACT 1999)

8.1 Title in any Goods and Services supplied by Permark passes to the Customer only when the Customer has made payment in full for all Goods and Services provided by Permark and of all other sums due to Permark by the Customer on any account whatsoever. Until all sums due to Permark by the Customer have been paid in full, Permark has a security interest in all Goods and Services.

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

8.3 The Customer gives irrevocable authority to Permark to enter any premises occupied by the Customer or on which Goods and Services are situated at any reasonable time after default by the Customer or before default if Permark believes a default is likely and to remove and repossess any Goods and Services and any other property to which Goods and Services are attached or in which Goods and Services are incorporated. Permark shall not be liable for any costs, damages, expenses or 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 unless by statute such liability cannot be excluded. Permark may either resell any repossessed Goods and Services and credit the Customer's account with the net proceeds of sale (after deduction of all repossession, storage, selling and other costs) or may retain any repossessed Goods and Services and credit the Customer's account with the invoice value thereof less such sum as Permark reasonably determines on account of wear and tear, depreciation, obsolescence, loss or profit and costs.

8.4 Where Goods and Services are retained by Permark pursuant to clause 8.3 the Customer waives the right to receive notice under s.120 of the Personal Property Securities Act 1999 ("PPSA") and to object under s.121 of the PPSA.

8.5 The following shall constitute defaults by the Customer:

8.5.1 Non payment of any sum by the due date.

8.5.2 The Customer intimates that it will not pay any sum by the due date.

8.5.3 Any Goods and Services are seized by any other creditor of the Customer or any other creditor intimates that it intends to seize Goods and Services.

8.5.4 Any Goods and Services in the possession of the Customer are materially damaged while any sum due from the Customer to Permark remains unpaid.

8.5.5 The Customer is bankrupted or put into liquidation or a receiver is appointed to any of the Customer's assets or a landlord distrains against any of the Customer's assets.

8.5.6 A Court judgment is entered against the Customer and remains unsatisfied for seven (7) days.

8.5.7 Any material adverse change in the financial position of the Customer.

8.5.8 The Customer gives Permark a security interest in all of the Customer's present and after-acquired Property that Permark has performed services on or to or in which goods or materials supplied or financed by Permark have been attached or incorporated.

9. PAYMENT ALLOCATION

9.1 Permark may in its discretion allocate any payment received from the Customer towards any invoice that Permark 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. In the absence of any payment allocation by Permark, payment shall be deemed to be allocated in such manner as preserves the maximum value of Permark's purchase money security interest in the Goods and Services.

10.DISPUTES AND RETURN OF GOODS

10.1 No dispute relating to the Goods and Services will be considered unless made within seven (7) days of delivery.

10.2 No Goods will be accepted for return without the prior approval of Permark. A 15% restocking fee may apply and any Goods considered for return must be unused, undamaged and still in original packaging. No returns will be considered for special orders.

11.WARRANTY

11.1 With respect to Goods manufactured by Permark, Permark will repair or replace free on reasonable notice any equipment or parts proving defective due to inferior material or workmanship, fair wear and tear excepted, subject to the following conditions:

11.1.1 This warranty shall not apply in respect of defects notified to Permark later than six (6) months from the date of delivery of such equipment or parts;

11.1.2 This warranty shall not apply to:

(a) Any defect arising from misuse or neglect.

(b) Any equipment repaired or altered or fitted with parts by anyone other than Permark other than on its specific instructions.

(c) Any goods or services in respect of which any payment by the customer is in arrears.

(d) Any consequential loss or damage or loss of profit including any loss or damage caused by the negligence of Permark.

11.1.3 With respect to Goods not manufactured by Permark then a manufacturers warranty will apply if applicable.

12.LIABILITY

12.1 The Consumer Guarantees Act 1993, the Fair Trading Act 1986 and other statutes may imply warranties or conditions or impose obligations upon Permark which cannot by law (or which can only to a limited extent by law) be excluded or modified. In respect of any such implied warranties, conditions or terms imposed on Permark, Permark's liability shall, where it is allowed, be excluded or if not able to be excluded only apply to the minimum extent required by the relevant statute.

12.2 Except as otherwise provided by clause 12.1 Permark shall not be liable for:

12.2.1 Any loss or damage of any kind whatsoever, arising from the supply of Goods and Services by Permark to the Customer, including consequential loss whether suffered or incurred by the Customer or another person and whether in contract or tort (including negligence) or otherwise and irrespective of whether such loss or damage arises directly or indirectly from Goods and Services provided by Permark to the Customer; and

12.2.2 The Customer shall indemnify Permark against all claims and loss 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 Permark or otherwise, brought by any person in connection with any matter, act, omission, or error by Permark its agents or employees in connection with the Goods and Services.

13.CONSUMER GUARANTEES ACT

13.1 The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the Customer acquires Goods and Services from Permark for the purposes of a business in terms of section 2 and 43 of that Act.

14.PERSONAL GUARANTEE OF COMPANY DIRECTORS OR TRUSTEES

14.1 If the Customer is a company or trust, the director(s) or trustee(s) signing this application, in consideration for Permark agreeing to supply Goods and Services and grant credit to the Customer at their request, also sign this application in their personal capacity and jointly and severally personally undertake as principal debtors to Permark the payment of any and all monies now or hereafter owed by the Customer to Permark and indemnify Permark against non-payment by the Customer. Any personal liability of a signatory hereto shall not exclude the Customer in any way whatsoever from the liabilities and obligations contained in these terms and conditions of trade. The signatories and Customer shall be jointly and severally liable under the terms and conditions of trade for payment of all sums due hereunder.

15.MISCELLANEOUS

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

15.2 Failure by Permark to enforce any of the terms and conditions shall not be deemed to be a waiver of any of the rights or obligations Permark has under the terms and conditions.

15.3 If any provision of these terms and conditions of trade 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.

15.4 Tooling and Film held by Permark on behalf of the customer shall be kept for a minimum period of 2 years from last use. After this time tooling and film is rendered as obsolete, and will subsequently be disposed of without noifciation to the customer. Within that 2 year period Permark will return Tooling and Film upon request.

15.5 The Laws of New Zealand shall apply to these terms and conditions of trade.