

# Application For Credit Account

Nature of Organisation:

Sole Trader  Partnership  Limited Company  Trust  Other  \_\_\_\_\_

Trade Name: \_\_\_\_\_

Legal Name: \_\_\_\_\_

Delivery Address: \_\_\_\_\_

Postal Address: \_\_\_\_\_

Telephone: ( ) \_\_\_\_\_ Fax: ( ) \_\_\_\_\_ Mobile: ( ) \_\_\_\_\_

Registered Office: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Company Number: \_\_\_\_\_ Date Of Birth (if sole trader): \_\_\_\_\_

Previous Address Details (if less than 2 years): \_\_\_\_\_

Identification Type: \_\_\_\_\_ Identification Number: \_\_\_\_\_

**Details of Partners (if Partnership)/ Sole Trader      Details of Directors (If Limited Company)**

1. Full Name: \_\_\_\_\_ 1. Full Name: \_\_\_\_\_

Home Address: \_\_\_\_\_ Home Address: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Home Phone: \_\_\_\_\_

2. Full Name: \_\_\_\_\_ 2. Full Name: \_\_\_\_\_

Home Address: \_\_\_\_\_ Home Address: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Home Phone: \_\_\_\_\_

Contact Person for Accounts: \_\_\_\_\_ Phone No: \_\_\_\_\_

Invoice Email: \_\_\_\_\_ Statement Email: \_\_\_\_\_

Name of Bank: \_\_\_\_\_ Bank Acct #: \_\_\_\_\_

Solicitors Name and Address: \_\_\_\_\_

Accountants Name and Address: \_\_\_\_\_

Trade References: (excluding Credit Cards, Fuel Suppliers, Landlord, Power &amp; Phone)

1. \_\_\_\_\_ Phone No: \_\_\_\_\_

2. \_\_\_\_\_ Phone No: \_\_\_\_\_

3. \_\_\_\_\_ Phone No: \_\_\_\_\_

I certify that the above information is true and correct and that I am authorised to make this application for credit. In accordance with the Privacy Act (1993) I authorise any person or company to give information as may be required in response to credit inquiries. I have read and understand the GENERAL TERMS AND CONDITIONS OF TRADE (overleaf) of Oxtd Resources Ltd which form part of, and are intended to be read in conjunction with this Credit Application and agree to be bound by these conditions.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

(Proprietor / Partner / Director / Authorised Signatory) Circle One

Full Name: \_\_\_\_\_ Position: \_\_\_\_\_

**Guarantor Details (if required):**

Full Name: \_\_\_\_\_ Occupation: \_\_\_\_\_

Address: \_\_\_\_\_ Signature: \_\_\_\_\_

Office Use Only:

Actioned: \_\_\_\_\_

Date: \_\_\_\_\_

Account Number: \_\_\_\_\_

## Oxtd Resources Limited - Terms & Conditions of Trade

<p><b>1. Definitions</b></p> <p>1.1 "Supplier" shall mean Oxtd Resources Limited and its successors and assigns.</p> <p>1.2 "Buyer" shall mean the Buyer or any person acting on behalf of and with the authority of the Buyer.</p> <p>1.3 "Guarantor" means that person (or persons), or entity that agrees herein to be liable for the debts of the Buyer on a principal debtor basis.</p> <p>1.4 "Goods" shall have the same meaning as in section 2 of the Sale of Goods Act 1908 and are goods supplied by the Supplier to the Buyer (and where the context so permits shall include any supply of Services as hereinafter defined).</p> <p>1.5 "Services" shall mean all services supplied by the Supplier to the Buyer and includes any advice or recommendations (and where the context so permits shall include any supply of Goods as defined supra).</p> <p>1.6 "Price" shall mean the cost of the goods as agreed between the Supplier and the Buyer subject to clause 4 of this contract.</p> <p><b>2. Acceptance</b></p> <p>2.1 Any instructions received by the Supplier from the Buyer for the supply of Goods shall constitute acceptance of the terms and conditions contained herein.</p> <p>2.2 Where more than one Buyer has entered into this agreement, the Buyers shall be jointly and severally liable for all payments of the Price.</p> <p>2.3 Upon acceptance of these terms and conditions by the Buyer the terms and conditions are irrevocable and can only be rescinded in accordance with these terms and conditions or with the written consent of the manager of the Supplier.</p> <p>2.4 None of the Supplier's agents or representatives are authorised to make any representations, statements, conditions or agreements not expressed by the manager of the Supplier in writing nor is the Supplier bound by any such unauthorised statements.</p> <p><b>3. Goods / Services</b></p> <p>3.1 The Goods and/or Services are as described on the invoices, quotation, work authorisation or any other work commencement forms as provided by the Supplier to the Buyer.</p> <p><b>4. Price And Payment</b></p> <p>4.1 At the Suppliers sole discretion the Price shall be either;</p> <p>(a) The Price shall be as indicated on invoices provided by the Supplier to the Buyer in respect of Goods supplied; or</p> <p>(b) The Price shall be the Supplier's current price at the date of delivery of the Goods according to the Suppliers current Price list; or</p> <p>(c) The Price of the Goods shall, subject to clause 4.2, be the Suppliers quoted Price, which shall be binding upon the Supplier provided that the Buyer shall accept in writing the Suppliers quotation within thirty (30) days.</p> <p>4.2 The Supplier may by giving notice to the Buyer at any time up to seven (7) days before delivery increase the Price of the Goods to reflect any increase in the cost to the Supplier beyond the reasonable control of the Supplier. (including, without limitation, foreign exchange fluctuations, taxes and duties, and the cost of labour, materials and other manufacturing costs).</p> <p>4.3 At the Supplier's sole discretion a deposit may be required. The deposit amount or percentage of the Price will be stipulated at the time of the order of the Goods/Services and shall become immediately due and payable.</p> <p>4.4 Time for payment for the Goods shall be of the essence and will be stated on the invoice, quotation or any other order forms. If no time is stated then payment shall be on delivery of the Goods.</p> <p>4.5 The Supplier may withhold delivery of the Goods until the Buyer has paid for them, in which event payment shall be made before the delivery date.</p> <p>4.6 At the Supplier's sole discretion, payment for approved Buyers shall be made by instalments in accordance with the Suppliers delivery/payment schedule.</p> <p>4.7 At the Supplier's sole discretion, payment for approved Buyers shall be due on 20<sup>th</sup> each month following the posting of a statement to the Buyer's address or address for notices.</p> <p>4.8 At the Supplier's sole discretion, for certain approved Buyers payment will be due seven (7) days following the date of the invoice.</p> <p>4.9 Payment will be made by cash, or by cheque, or by bank cheque, or by direct credit, or by any other method as agreed to between the Buyer and the Supplier.</p> <p>4.10 The Price shall be increased by the amount of any GST and other taxes and duties, which may be applicable, except to the extent that such taxes are expressly included in any quotation given by the Supplier.</p> <p><b>5. Delivery Of Goods</b></p> <p>5.1 Delivery of the Goods shall be made to the Buyer's address. The Buyer shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery, or delivery of the Goods shall be made to the Buyer at the Supplier's address.</p> <p>5.2 Delivery of the Goods to a carrier, either named by the Buyer or failing such naming to a carrier at the discretion of the Supplier for the purpose of transmission to the Buyer, is deemed to be a delivery of the Goods to the Buyer.</p> <p>5.3 The costs of carriage and any insurance which the Buyer reasonably directs the Supplier to incur shall be reimbursed by the Buyer (without any set-off or other withholding whatever) and shall be due on the date for payment of the Price. The carrier shall be deemed to be the Buyer's agent.</p> <p>5.4 The failure of the Supplier to deliver shall not entitle either party to treat this contract as repudiated.</p> <p>5.5 The Supplier shall not be liable for any loss or damage whatsoever due to failure by the Supplier to deliver the Goods (or any of them) promptly or at all.</p> <p><b>6. Risk</b></p> <p>6.1 If the Supplier retains property in the Goods nonetheless all risk for the Goods passes to the Buyer on delivery.</p> <p>6.2 If any of the Goods are damaged or destroyed prior to property in them passing to the Buyer, the Supplier is entitled, without prejudice to any of its other rights or remedies under these terms and conditions (including the right to receive payment of the balance of the Price for the Goods), to receive all insurance proceeds payable in respect of the Goods. This applies whether or not the Price has become payable under these terms and conditions. The production of these terms and conditions by the Supplier is sufficient evidence of the Supplier's rights to receive the insurance proceeds without the need for any person dealing with the Supplier to make further enquiries.</p> <p><b>7. Defects/Returns</b></p> <p>7.1 The Buyer shall inspect the Goods on delivery and shall within seven (7) days of delivery notify the Supplier of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Buyer shall afford the Supplier an opportunity to inspect the Goods within a reasonable time following delivery if the Buyer believes the Goods are defective in any way. If the Buyer shall fail to comply with these provisions the Goods shall be conclusively presumed to be in accordance with the terms and conditions and free from any defect or damage.</p> <p>7.2 For defective Goods which the Supplier has agreed in writing that the Buyer is entitled to reject, the Supplier's liability is limited to either (at the Supplier's discretion) replacing the Goods or repairing the Goods provided that:</p> <p>(a) the Buyer has complied with the provisions of clause 7.1;</p> <p>(b) the Goods are returned at the Buyers cost within seven (7) days of the delivery date;</p> <p>(c) the Supplier will not be liable for Goods which have not been stored or used in a proper manner;</p> <p>(d) the Goods are returned in the condition in which they were delivered and with all packaging material, brochures and</p>	<p>instruction material in as new condition as is reasonable possible in the circumstances.</p> <p>7.3 The Supplier may (in its discretion) accept the Goods for credit but this may incur a restocking fee of 25% of the value of the returned Goods plus any freight.</p> <p><b>8. Warranty</b></p> <p>8.1 For Goods not manufactured by the Supplier the warranty shall be the current warranty provided by the manufacturer of the Goods. The Supplier shall be under no liability whatsoever except for the express conditions as detailed and stipulated in the manufacturers warranty.</p> <p><b>9. Default &amp; Consequences Of Default</b></p> <p>9.1 Interest on overdue invoices shall accrue from the date when payment becomes due daily until the date of payment at a rate of 2.5% compounding per calendar month and shall accrue at such a rate after as well as before any judgement.</p> <p>9.2 If the Buyer defaults in payment of any invoice when due, the Buyer shall indemnify the Supplier from and against all of the Supplier's costs and disbursements including on a solicitor and own client basis and in addition all of the Supplier's nominee costs of collection. Without prejudice to any other remedies the Supplier may have, if at any time the Buyer is in breach of any obligation (including those relating to payment), the Supplier may suspend or terminate the supply of Goods to the Buyer and any of its other obligations under the terms and conditions. The Supplier will not be liable to the Buyer for any loss or damage the Buyer suffers because the Supplier exercised its rights under this clause.</p> <p>9.4 If any account remains unpaid at the end of the second month after supply of the Goods or services the following shall apply: An immediate amount of the greater of \$20.00 or 10.00% of the amount overdue shall be levied for administration fees which sum shall become immediately due and payable in addition to the interest payable under clause 9.1 hereof.</p> <p>9.5 In the event that:</p> <p>(a) any money payable to the Supplier becomes overdue, or in the Supplier's opinion the Buyer will be unable to meet its payments as they fall due; or</p> <p>(b) the Buyer 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,</p> <p>(c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Buyer or any asset of the Buyer,</p> <p>then without prejudice to the Supplier's other remedies at law</p> <p>(i) the Supplier shall be entitled to cancel all or any part of any order of the Buyer which remains unperformed in addition to and without prejudice to any other remedies; and</p> <p>(ii) all amounts owing to the Supplier shall, whether or not due for payment, immediately become due and payable.</p> <p><b>10. Title</b></p> <p>10.1 It is the intention of the Supplier and agreed by the Buyer that property in the goods shall not pass until:</p> <p>(a) The Buyer has paid all amounts owing for the particular Goods, and</p> <p>(b) The Buyer has met all other obligations due by the Buyer to the Supplier in respect of all contracts between the Supplier and the Buyer, and that the Goods, or proceeds of the sale of the Goods, shall be kept separate until the Supplier shall have received payment and all other obligations of the Buyer are met.</p> <p>10.2 It is further agreed that:</p> <p>(a) Until such time as ownership of the Goods shall pass from the Supplier to the Buyer the Supplier may give notice in writing to the Buyer to return the Goods or any of them to the Supplier. Upon such notice the rights of the Buyer to obtain ownership or any other interest in the Goods shall cease.</p> <p>(b) If the Buyer fails to return the Goods to the Supplier then the Supplier or the Supplier's agent may enter upon and into land and premises owned, occupied or used by the Buyer or any premises as the invitee of the Buyer, where the Goods are situated and take possession of the Goods, without being responsible for any damage thereby caused.</p> <p><b>11. Personal Property Securities Act 1999</b></p> <p>11.1 Upon assenting to these terms and conditions in writing the Buyer acknowledges and agrees that:</p> <p>(a) These terms and conditions constitute a security agreement for the purposes of the PPSA; and</p> <p>(b) A security interest is taken in all Goods previously supplied by the Supplier to the Buyer (if any) and all Goods that will be supplied in the future by the Supplier to the Buyer during the continuance of the parties relationship.</p> <p>11.2 The Buyer undertakes to:</p> <p>(a) sign any further documents and/or provide any further information, such information to be complete, accurate and up-to-date in all respects, which the Supplier may reasonably require to register a financing statement or financing charge statement on the Personal Property Securities Register;</p> <p>(b) indemnify, and upon demand reimburse, the Supplier for all expenses incurred in registering a financing statement or financing charge statement on the Personal Property Securities Register or releasing any Goods charged thereby;</p> <p>(c) not register a financing charge statement or a charge demand without the prior written consent of the Supplier;</p> <p>(d) give the Supplier not less than fourteen (14) days prior written notice of any proposed change in the Buyer's name and/or any other change in the Buyer's details (including but not limited to, changes in the Buyer's address, facsimile number, or business practice); and</p> <p>(e) immediately advise the Supplier of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.</p> <p>11.3 The Supplier and the Buyer agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these Terms and Conditions.</p> <p>11.4 The Buyer waives its rights as a debtor under sections 116, 120(2), 121, 125, 126, 127, 129, 131 and 132 of the PPSA.</p> <p>11.5 Unless otherwise agreed to in writing by the Supplier, the Buyer waives its right to receive a verification statement in accordance with section 148 of the PPSA.</p> <p>11.6 The Buyer unconditionally ratifies any actions taken by the Supplier under and by virtue of the power of attorney given by the Buyer to the Supplier under clauses 11.1 to 11.5.</p> <p><b>12. Security &amp; Charge</b></p> <p>12.1 Despite anything to the contrary contained herein or any other rights which the Supplier may have however:</p> <p>(a) Where the Buyer and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being charged, both the Buyer and/or the Guarantor agree to mortgage and/or charge all of their joint and/or several interest in the said land, realty or any other asset to the Supplier or the Supplier's nominee to secure all amounts and other monetary obligations payable under the terms and conditions. The Buyer and/or the Guarantor acknowledge and agree that the Supplier (or the Supplier's nominee) shall be entitled to lodge where appropriate a caveat, which caveat shall be released once all payments and other monetary obligations payable hereunder have been met.</p> <p>(b) Should the Supplier elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Buyer and/or Guarantor shall indemnify the Supplier from and against all of the Supplier's costs and disbursements including legal costs on a solicitor and own client basis.</p> <p>(c) To give effect to the provisions of clause [11, 12.1(a) to (b)] inclusive hereof the Buyer and/or the Guarantor (if any) do hereby irrevocably nominate constitute and appoint the Supplier or the Supplier's nominee as the Buyer's and/or Guarantor's</p>	<p>true and lawful attorney to execute mortgages and charges (whether registrable or not) including such other terms and conditions as the Supplier and/or the Supplier's nominee shall think fit in his/her/its/their absolute discretion against the joint and/or several interest of the Buyer and/or the Guarantor in any land, realty or asset in favour of the Supplier and in the Buyer's and/or Guarantor's name as may be necessary to secure the said Buyer's and/or Guarantor's obligations and indebtedness to the Supplier and further to do and perform all necessary and other acts including instituting any necessary legal proceedings, and further to execute all or any documents in the Supplier's absolute discretion which may be necessary or advantageous to give effect to the provisions of this clause.</p> <p><b>13. Intellectual Property</b></p> <p>13.1 Where the Supplier has designed or drawn Goods for the Buyer, then the copyright in those designs and drawings shall remain vested in the Supplier, and shall only be used by the Buyer at the Supplier's discretion.</p> <p>13.2 Conversely, in such a situation, where the Buyer has supplied drawings, the Supplier in its sale conditions may look for an indemnity (the specifications and design of the Goods (including the copyright, design right or other intellectual property in them) shall as between the parties be the property of the Supplier).</p> <p>13.3 Where any designs or specifications have been supplied by the Buyer for manufacture by or to the order of the Supplier then the Buyer warrants that the use of those designs or specifications for the manufacture, processing, assembly or supply of the Goods shall not infringe the rights of any third party.</p> <p>13.4 The Buyer warrants that all designs or instructions to the Supplier will not cause the Supplier to infringe any patent, registered design or trademark in the execution of the Buyers order.</p> <p><b>14. Cancellation</b></p> <p>14.1 The Supplier may cancel these terms and conditions or cancel delivery of Goods and Services at any time before the Goods are delivered by giving written notice. On giving such notice the Supplier shall promptly repay to the Buyer any sums paid in respect of the Price for those Goods. The Supplier shall not be liable for any loss or damage whatsoever arising from such cancellation.</p> <p><b>15. Privacy Act 1993</b></p> <p>15.1 The Buyer and the Guarantor/s (if separate to the Buyer) authorises the Supplier to:</p> <p>(a) collect, retain and use any information about the Buyer, for the purpose of assessing the Buyer's creditworthiness or marketing products and services to the Buyer; and</p> <p>(b) to disclose information about the Buyer, whether collected by the Supplier from the Buyer directly or obtained by the Supplier from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Buyer.</p> <p>15.2 Where the Buyer is an individual the authorities under (clause 15.1) are authorities or consents for the purposes of the Privacy Act 1993.</p> <p>15.3 The Buyer shall have the right to request the Supplier for a copy of the information about the Buyer retained by the Supplier and the right to request the Supplier to correct any incorrect information about the Buyer held by the Supplier.</p> <p><b>16. Buyers Disclaimer</b></p> <p>16.1 The Buyer hereby disclaims any right to rescind, or cancel the contract or to sue for damages or to claim restitution arising out of any misrepresentation made to him by any servant or agent of the Supplier and the Buyer acknowledges that he buys the Goods relying solely upon his own skill and judgement and that the Supplier shall not be bound by nor responsible for any term, condition, representation or warranty other than the warranty given by the Manufacturer which warranty shall be personal to the Buyer and shall not be transferable to any subsequent Buyer.</p> <p>17.1 <b>Contractual Remedies Act</b></p> <p>17.1 The provisions of the Contractual Remedies Act 1979 shall apply to this contract as if Section 15(d) of the Act which states that nothing in the Act shall affect the Sale of Goods Act 1908, were omitted from the Contractual Remedies Act 1979.</p> <p><b>18. Unpaid Suppliers Rights To Dispose Of Goods</b></p> <p>18.1 In the event that:</p> <p>(a) the Supplier retains possession or control of the Goods; and</p> <p>(b) payment of the Price is due to the Supplier; and</p> <p>(c) the Supplier has made demand in writing of the Buyer for payment of the Price in terms of this contract; and</p> <p>(d) the Supplier has not received the Price of the Goods, then, whether the property in the Goods has passed to the Buyer or has remained with the Supplier, the Supplier may dispose of the Goods and may claim from the Buyer the loss to the Supplier on such disposal.</p> <p><b>19. Lien</b></p> <p>19.1 Where the Supplier has not received or been tendered the whole of the price, or the payment has been dishonoured, the Supplier shall have:</p> <p>(a) a lien on the goods;</p> <p>(b) the right to retain them for the price while the Supplier is in possession of them;</p> <p>(c) a right of stopping the goods in transit whether or not delivery has been made or ownership has passed; and</p> <p>(d) a right of resale,</p> <p>(e) the foregoing right of disposal,</p> <p>provided that the lien of the Supplier shall continue despite the commencement of proceedings or judgement for the price having been obtained</p> <p><b>20. Consumer Guarantees Act 1993</b></p> <p>20.1 This agreement is subject, in all cases except where the Buyer is contracting within the terms of a trade/business (which cases are specifically excluded), to the provisions of the Consumer Guarantees Act 1993.</p> <p><b>21. General</b></p> <p>21.1 If any provision of these terms and conditions 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.</p> <p>21.2 All Goods and Services supplied by the Supplier are subject to the laws of New Zealand and the Supplier takes no responsibility for changes in the law that affect the Goods or Services supplied.</p> <p>21.3 The Supplier shall be under no liability whatsoever to the Buyer for any indirect loss and/or expense (including loss of profit) suffered by the Buyer arising out of a breach by the Supplier of these terms and conditions.</p> <p>21.4 In the event of any breach of this contract by the Supplier the remedies of the Buyer shall be limited to damages. Under no circumstances shall the liability of the Supplier exceed the Price of the Goods.</p> <p>21.5 Neither party shall be liable for any default due to any act of God, terrorism, war, strike, lock out, industrial action, flood, storm or other event beyond the reasonable control of either party.</p> <p>21.6 The Buyer shall not set off against the Price amounts due from the Supplier.</p> <p>21.7 The Supplier may license or sub-contract all or any part of its rights and obligations without the Buyer's consent.</p> <p>21.8 The Supplier reserves the right to review these terms and conditions at any time and from time to time. If, following any such review, there is to be any change in such terms and conditions, that change will take effect from the date on which the Supplier notifies the Buyer of such change.</p>
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