

Jonel Hydraulics Limited

7, Blackburn Road, East Tamaki, Auckland, New Zealand,
POBOX 58503, Botany Manukau 2163, New Zealand

Tel 64 9 274 9296
Fax 64 9 273 8231
email admin@jonel.co.nz

CREDIT ACCOUNT APPLICATION AND AGREEMENT

TRADING NAME			
FULL LEGAL NAME ("The Customer")			
TYPE OF BUSINESS	Sole Trader ()	Partnership ()	Ltd company ()
COMPANY/PROPRIETOR/S NAME			
POSTAL ADDRESS			
DELIVERY ADDRESS			
CONTACT DETAILS	Phone ()	Fax ()	
** email vital for sending statements & invoices	Mobile ()	Email**:	
ACTIVITY		YEARS OF TRADING	
PAID UP CAPITAL			
ESTIMATED MONTHLY PURCHASES			

PROPERITORS / DIRECTORS

Name	Title	Address	% Holding

TRADE REFERENCES

Company Name	Contact Name	Telephone Number	Fax Number

KEY INFORMATION

Company Bank		Account Number	
Company Accountants		Contact Tel Number	
Company Solicitor		Contact Tel Number	

APPLICATION FOR CREDIT ACCOUNT

The **Customer** and the guarantor (where applicable) hereby apply for a credit account with the company under the terms and conditions attached to which the **Customer** and guarantor agree to be bound and confirm that the above information is true and correct in all respects.

PRIVACY RELEASE

The **Customer** and the guarantor each hereby authorize the Company to collect and hold personal information from any source the Company considers appropriate to be used for the purposes of determining creditworthiness debt collection purposes or other related purpose.

Signed by and on behalf of the Customer _____

Date _____

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Agreement for Supply of Engineering Services and Sale of Industrial Tools and Equipment

Date of Agreement: / /

Jonel Hydraulics Limited (“the Company”) and the Customer agree that the company will supply engineering services and sell industrial tools and equipment to the Customer on the terms and conditions attached

Signed by and on behalf of the Customer _____

Name of signatory _____

Title _____

GUARANTEE: In consideration of the Company agreeing to supply engineering services and to sell industrial Tools and equipment to the Customer the guarantor guarantees the performance of the obligations of the Customer and in particular will pay to the company any amount due to the company by the Customer

Signed by the Guarantor _____

Name of signatory _____

Accepted by the Company
JONEL HYDRAULICS LIMITED _____

By it’s Authorised Representative

TERMS AND CONDITIONS

Supply of Services

1. Services

1.1 The Company will carry out the instructions of the **Customer** in the services provided to the standard of best practice.

1.2 The Company reserves the right to cease to continue work where the **Customer** cannot or will not provide clear instructions, or where the Company is of the opinion that the **Customer** has misled or deceived the Company in any material way.

1.3 The Company will take reasonable steps to keep the **Customer** informed of the steps taken to carry out the **Customer**’s instructions.

1.4 By instructing the Company the **Customer** accepts liability to pay the accounts that the Company will render for work done as required to be done by the Company as the result of the **Customer**’s instructions together with all disbursements incurred in respect of the **Customer**’s instructions.

2. Charges

2.1 The Company charges for its work according to the time spent at the rate applicable at the time, and at the cost of all expendibles, materials and work subcontracted to complete the work required in terms of the **Customer**’s instructions

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3. Estimate of Costs

3.1 Often estimates cannot be given. On receiving your order we will have limited knowledge of the work required. Any costs estimate that is given will be the Company's "best guess" as to what the costs are likely to be. If the work does not proceed as the Company had expected due to unexpected complications, or if the work proves more complicated than originally anticipated, the Company will charge for all additional work.

3.2 If it appears that the estimate will be exceeded, the Company will advise the **Customer** of the reasons and obtain further instructions from the **Customer**.

Sale of Goods

4. Prices

a) All prices for all goods sold by the company to the **Customer** are subject to alteration without notice and orders are accepted on the understanding that they shall be charged at the price ruling at the time of dispatch.

b) Freight and handling charges are payable on all goods dispatched out of Auckland. Auckland deliveries subject to policy applying at the time of dispatch.

5 Title and passing of Property

Ownership and property in the goods remains with the Company until the buyer has discharged all outstanding indebtedness for all goods supplied by the company. If payment is not made on due date or if the purchaser goes into bankruptcy, liquidation or receivership the company shall without prejudice to any other remedies, be entitled to enter the purchaser's premises to retake possession of the goods and hold them until payment in full has been received or, at option of the company, to sell them at such a price as the company shall elect (any sum realised by such a sale in excess of the amount due to the company being payable to the **Customer**).

6 Risk

The risk in the goods supplied shall pass to the **Customer** as buyer upon delivery and where goods are delivered into the possession of the carrier for consignment to the **Customer** by boat, air transport, road transport, rail or otherwise the goods shall be deemed to be delivered to the **Customer** and to be at the **Customer**'s risk from such time as they have been delivered into the possession of such carrier notwithstanding that the company may pay or bear the freight charges or any part of them. The **Customer** shall take out all risk insurance to cover any goods in the customer's possession which remain the property of the company and the interest of the company should be noted on the insurance policy of the **Customer**.

7 Consumer Guarantees Act 1993 and Non Exclusion of Legal Rights

Where Goods or services are being supplied for the purpose of a business, the **Customer** agrees that the Consumer Guarantees Act 1993 does not apply. These Terms and Conditions do not and shall not be taken as applying to exclude, or restrict in manner whatsoever:

- a) The rights conferred upon the **Customer** by law and which cannot be lawfully excluded, restricted or modified.
- b) The remedies conferred on a **Customer** as a consumer by law.
- c) The exercise of any rights by the **Customer** as a consumer.
- d) Any mandatory condition which cannot be excluded by contract between the parties to a sale of goods.

Wherever any part of these terms and conditions will otherwise be inconsistent with the mandatory requirement of law these Terms and Conditions of Sale shall as far as possible be constructed as to be consistent with such law and to that purpose the extent necessary shall be of no force or effect.

8. Limitation of Liability

8.1 The liability of the company in respect of all claims for loss, damage or injury arising from breach of any of the company's obligations under this agreement or from any act or omission of the company is limited, in each case, to the lesser of:

- (a) Replacement or repair of the affected goods, or re-supply of the services;
- (b) Payment of the actual cost of replacing or repairing the affected goods, or re-supplying the services; and
- (c) The price of the affected goods or services

8.2 The company shall not be liable for any direct or indirect loss or damage (including without limitation loss of profits or savings or for any indirect or consequential loss or damage), however caused, arising out of or in connection with the supply of Goods or Services by the company, except as set out in clause 8.1.

8.3 No action arising out of the supply of Goods or Services by the company, regardless of form, may be brought more than six months after the **Customer** becomes aware, or reasonably ought to have become aware, of the circumstances giving rise to the action.

9. Warranties excluded

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9.1 All statutory, express or implied warranties by the company including, without limitation, the implied warranties of merchantability and fitness for any particular purpose are expressly excluded (to the extent permitted by law).

General

10. Credit Policy

10.1 The **Customer** may be allocated a credit limit and credit term upon the approval of a **credit account**. It will be:

- (1) Confidential between the **Customer** and the Company
- (2) The total amount that the Company will allow be due to it by the **Customer** at any time;
- (3) Able to be increased or decreased or withdrawn by the Company at any time;
- (4) The Company has the right to make reasonable and confidential credit enquiries from an appropriate information provider. The **Customer** and the Guarantor (as appropriate) in signing this agreement permit the Company to make such enquiries.
- (5) The Company may stop doing work (and instruct others to stop doing work) for the **Customer** if the **Customer's** credit limit is exceeded or any invoice remains unpaid. The Company will have no liability for any loss suffered by the **Customer** when work is stopped for this reason.

11. Joint and Several Liability

11.1 If there is more than one person comprising the **Customer**, each person is jointly and severally liable for payment in due time of all the Company's accounts and other charges such as those under clause

12. Payment Default

- 12.1 Interest is payable on any invoice overdue. **Interest** shall be calculated at the rate of 5% above the Company's bank overdraft rate applying at the date payment became due.
- 12.2 If the Company has to take steps to recover any unpaid account, the costs of recovery including all costs for legal work and debt collectors' charges are all payable by the **Customer**.

13. Sign on behalf of the company

13.1 Where the name of the person who completed "**Signed by and on behalf of the Customer**" on the front page of this agreement, then that person personally guarantees full payment of any amount due to the Company from the **Customer** in terms of this agreement.

14. Lien

14.1 Where work has been done by the Company but the Company has not been paid by the **Customer**, then the Company has the right to retain the vehicle, equipment or parts on which the Company has been contracted to work. This is known as a lien. The **Customer** must pay all outstanding invoices, charges and other expenses before the Company releases the **Customer's** property.

15. Security for payment

- 15.1 The **Customer** grants to the company a **security interest** in the goods and in any proceeds arising from the sale of the goods to secure the obligations of the **Customer** to pay the purchase price for the goods, and any other obligations by the **Customer** to the company under the terms and conditions attached (the "obligations") as and when the same become due.
- 15.2 The **Customer** grants to the company a lien over any of the **Customer's** equipment upon which services are performed in order to secure the obligations of the **Customer** to pay for such services and any other obligations as and when the same become due.
- 15.3 The **Customer** agrees that if the **Customer** is in breach of any of its obligations:
 - (a) the **Customer** will, upon receiving a written request from the company and as its own cost and expense, promptly deliver all or any of the goods to the company at such place as the company directs;
 - (b) the company may (and the **Customer** grants the company a licence to), at any time without giving notice either itself or through an authorised agent, enter into any place where the goods are located and remove the goods, if the **Customer** fails to deliver the goods as required under this clause;
 - (c) The company may sell all or any of the goods without giving prior notice of the sale to the **Customer** (and to that end, nothing in s114 (1) (a) of the Personal Property Securities Act 1999 ("PPSA") shall apply to these terms); and
 - (d) if the company proposes, pursuant to s120 of the PPSA to take all or any of the goods in satisfaction of the obligations, the **Customer** waives its right to require the company to sell the goods and agrees that notwithstanding s120(1) of the PPSA, the **Customer** shall remain liable to the company for the difference between the market value of the goods at the time it is first able to be sold by the company free from all rights

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and interests of the **Customer** and other persons pursuant to s123(1) of the PPSA and the amount of the obligations which are in default.