

# ACCOUNT APPLICATION FORM



**ENTITY DETAILS:**

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

(Please tick) Sole Trader  Individual  Partnership  Company (Ltd)  Other (please state): .....

Trading as: ..... Postal Address: .....

Delivery Address: ..... Email: .....

Nature of Business: ..... Years in Business: .....

Telephone: ..... Fax: ..... Date of Birth: .....

Contact Name & Position: .....

**OWNERSHIP** please insert Owner(s) / Directors Name(s) in full

1: ..... Address: .....

2: ..... Address: .....

IF LIMITED LIABILITY COMPANY - Address of Registered Office: .....

Date of Incorporation: ..... Incorporation No: .....

**FINANCIAL & PROFESSIONAL ADVISORS**

Name of Accountant: ..... Solicitor: .....

Bank: ..... Branch: ..... Acct No: .....

TRADE REFERENCES			
Company	Contact Name	Phone Number	Account open since

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 Stainless Design Limited 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.

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

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

**PERSONAL GUARANTEE**

I/we also acknowledge that pursuant to the personal guarantee contained in the terms and conditions of trade that, I/we am/are also signing this application form in my/our personal capacity. **NOTE:** We cannot open your account without a signed personal guarantee by a company director.

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

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

**OFFICE USE ONLY**

Details Checked By: \_\_\_\_\_ Date: \_\_\_\_\_

Account Application – Approved / Declined    Credit Limit - \$ \_\_\_\_\_    Other Notes: \_\_\_\_\_

Authorised By: \_\_\_\_\_ Date: \_\_\_\_\_    Details Entered By: \_\_\_\_\_    Date: \_\_\_\_\_

## TERMS & CONDITIONS OF TRADE

### 1. DEFINITIONS

- 1.1 "Stainless Design" shall mean Stainless Design Limited, 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 Goods and services from Stainless Design.
- 1.3 "Goods" shall mean:
- 1.3.1 all Goods of the general description specified on the front of this agreement and supplied by Stainless Design to the Customer; and
- 1.3.2 all Goods supplied by Stainless Design to the Customer; and
- 1.3.3 all inventory of the Customer that is supplied by Stainless Design; and
- 1.3.4 all Goods supplied by Stainless Design and further identified in any invoice issued by Stainless Design 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 Stainless Design or that are stored by the Customer in a manner that enables them to be identified as having been supplied by Stainless Design; and
- 1.3.6 all of the Customer's present and after-acquired Goods that Stainless Design has performed work on or to or in which goods or materials supplied or financed by Stainless Design 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, services and advice provided by Stainless Design to the Customer and shall include without limitation the manufacture, design, product development, fabrication and installation of stainless metal, steel and sheet metal products, repairs, maintenance and development of machinery and equipment and all associated Goods and services and all charges for labour, hire charges, insurance charges, or any fee or charge associated with the supply of Goods and Services by Stainless Design to the Customer.
- 1.5 "Price" shall mean the cost of the Goods and Services as agreed between Stainless Design and the Customer and includes all disbursements e.g. charges Stainless Design pay to others on the Customer's behalf subject to clause 4 of this contract.

### 2. ACCEPTANCE

- 2.1 Any instructions received by Stainless Design 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 Stainless Design 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 Stainless Design to any other party.
- 3.2 The Customer authorises Stainless Design 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 Stainless Design 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 Stainless Design between the date of the contract and delivery of the Goods and Services. All Goods and Services are subject to availability and supplier price variations. Any substantial change to the cost of Goods and Services will result in a price review by Stainless Design.

### 5. PAYMENT

- 5.1 Unless otherwise agreed, payment for Goods and Services shall be made either:
- 5.1.1 Cash on delivery;
- 5.1.2 On completion of work; or
- 5.1.3 In full on or before the 20<sup>th</sup> 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 Stainless Design 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.
- 5.6 Where a project is not completed within a calendar month, a progress claim for the value of the work completed will be invoiced at the end of the month.

### 6. QUOTATION

- 6.1 Where a quotation is given by Stainless Design 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 Stainless Design reserves 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 Stainless Design's risk until delivery to the Customer and/or installation.
- 7.2 Delivery of Goods and Services shall be deemed complete when Stainless Design 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.
- 7.3 The time agreed for delivery shall not be an essential term of this contract unless the Customer gives written notice to Stainless Design making time of the essence.
- 7.4 Where Stainless Design delivers Goods and Services to the Customer by instalments and Stainless Design fails to deliver or supply one or more instalments the Customer shall not have the right to cancel the contract but shall have the right to claim compensation as a severable breach.

### 8. AGENCY

- 8.1 The Customer authorises Stainless Design to contract either as principal or agent for the provision of Goods and Services that are the matter of this contract.
- 8.2 Where Stainless Design enters into a contract of the type referred to in clause 8.1 it shall be read with and form part of this agreement and the Customer agrees to pay any amounts due under that contract.

### 9. TITLE AND SECURITY (PERSONAL PROPERTY SECURITIES ACT 1999)

- 9.1 Title in any Goods and Services supplied by Stainless Design passes to the Customer only when the Customer has made payment in full for all Goods and Services provided by Stainless Design and of all other sums due to Stainless Design by the Customer on any account whatsoever. Until all sums due to Stainless Design by the Customer have been paid in full, Stainless Design has a security interest in all Goods and Services.
- 9.2 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 Stainless Design 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 be assigned to Stainless Design as security for the full satisfaction by the Customer of the full amount owing between Stainless Design and Customer.
- 9.3 The Customer gives irrevocable authority to Stainless Design 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 Stainless Design 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. Stainless Design 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. Stainless Design 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 Stainless Design reasonably determines on account of wear and tear, depreciation, obsolescence, loss or profit and costs.

- 9.4 Where Goods and Services are retained by Stainless Design pursuant to clause 9.3 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.
- 9.5 The Customer grants a charge over all its present and after acquired personal property in favour of Stainless Design to secure payment for products and services provided by Stainless Design and the Customer's other obligations under these terms and conditions of trade. Stainless Design shall be entitled to register the security interest granted under clause 9.1 and this clause under the PPSA and the Customer will provide any information or other assistance required to complete that registration.
- 9.6 The following shall constitute defaults by the Customer:
- 9.6.1 Non payment of any sum by the due date.
- 9.6.2 The Customer intimates that it will not pay any sum by the due date.
- 9.6.3 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.
- 9.6.4 Any Goods and Services in the possession of the Customer are materially damaged while any sum due from the Customer to Stainless Design remains unpaid.
- 9.6.5 The Customer is bankrupt 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.
- 9.6.6 A Court judgment is entered against the Customer and remains unsatisfied for seven (7) days.
- 9.6.7 Any material adverse change in the financial position of the Customer.

- 9.7 If the Credit Repossession Act applies to any transaction between the Customer and Stainless Design, the Customer has the rights provided in that Act despite anything contained in these terms and conditions of trade.

### 10. GENERAL LIEN

- 10.1 The Customer agrees that Stainless Design may exercise a general lien against any Goods and Services or property belonging to the Customer that is in the possession of Stainless Design for all sums outstanding under this contract and any other contract to which the Customer and Stainless Design are parties.
- 10.2 If the lien is not satisfied within seven (7) days of the due date Stainless Design may, having given notice of the lien at its option either:
- 10.2.1 Remove such Goods and Services and store them in such a place and in such a manner as Stainless Design shall think fit and proper and at the risk and expense of the Customer; or
- 10.2.2 Sell such Goods and Services or part thereof upon such terms as it shall think fit and apply the proceeds in or towards discharge of the lien and costs of sale without being liable to any person for damage caused.

### 11. DISPUTES AND RETURN OF GOODS

- 11.1 No goods will be accepted for return without the prior written consent of Stainless Design.
- 11.2 Any goods accepted for return, must be returned to Stainless Design within fourteen (14) days and must be accompanied by a copy of the packing slip issued by Stainless Design. The cost of freight, courier or insurance is to be paid by the Customer.
- 11.3 Stainless Design (at its discretion) may make a deduction to cover handling or for the deterioration in the original quality or appearance of the goods.

### 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 Stainless Design 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 Stainless Design, Stainless Design'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 Stainless Design shall not be liable for:
- 12.2.1 Any loss or damage of any kind whatsoever 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 Stainless Design to the Customer; and
- 12.2.2 The Customer shall indemnify Stainless Design 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 Stainless Design or otherwise, brought by any person in connection with any matter, act, omission, or error by Stainless Design its agents or employees in connection with the Goods and Services.

### 13. WARRANTY

- 13.1 Manufacturer's warranties apply where applicable
- 13.2 No representation, condition, warranty or premise expressed or implied by law or otherwise applies to the Goods and Services except where goods are supplied or services provided pursuant to the Consumer Guarantees Act 1993 or except where expressly stated in this contract.

### 14. CONSUMER GUARANTEES ACT

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

### 15. PERSONAL GUARANTEE OF COMPANY DIRECTORS OR TRUSTEES

- 15.1 The person signing this contract, in consideration for Stainless Design agreeing to supply Goods and Services and grant credit to the Customer at their request, also sign this contract in their personal capacity and jointly and severally personally undertake as principal debtors to Stainless Design the payment of any and all monies now or hereafter owed by the Customer to Stainless Design and indemnify Stainless Design 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 this contract. The signatories and Customer shall be jointly and severally liable under the terms and conditions of this contract and for payment of all sums due hereunder.

### 16. CANCELLATION

- 16.1 Stainless Design shall, without any liability, and without any prejudice to any other right it has in law or equity, have the right by notice to suspend or cancel in whole or in part any contract for the supply of Goods and Services to the Customer if the Customer fails to pay any money owing after the due date or the Customer commits an act of bankruptcy as defined in section 19 of the Insolvency Act 1967.
- 16.2 Any cancellation or suspension of this agreement shall not affect Stainless Design's claim for money due at the time of cancellation or suspension or for damages for any breach of any terms of this contract or the Customer's obligations to Stainless Design under this contract.

### 17. COPYRIGHT AND INTELLECTUAL PROPERTY

- 17.1 Stainless Design, owns and has copyright in all designs, data, products, specifications and software produced by Stainless Design in connection with the goods and services provided pursuant to this contract and the Customer may use the goods and services only if paid for in full and for the purpose for which they were intended and supplied by Stainless Design.

### 18. MISCELLANEOUS

- 18.1 Stainless Design shall not be liable for delay or failure to perform its obligations if the cause of the delay or failure is beyond its control.
- 18.2 Failure by Stainless Design to enforce any of the terms and conditions contained in this contract shall not be deemed to be a waiver of any of the rights or obligations Stainless Design has under this contract.
- 18.3 If any provision of this contract 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.
- 18.4 The client shall not assign all or any of its rights or obligations under this contract without the written consent of Stainless Design.
- 18.5 The Law of New Zealand applies to this contract. Where these terms and conditions of trade are at variance with the order or instructions from the Customer these terms and conditions of trade shall prevail.
- 18.6 Unless Stainless Design elects otherwise, any dispute between the parties is to be dealt with in accordance with the Arbitration Act 1996.