

Cambrian Engineering Company Ltd

Credit Account Application to be completed by Applicants

Please complete all sections and read the Terms and Conditions of Trade

Customers Trading Name:	
Customers Full or Legal Name:	

<u>ALL CUSTOMERS TO COMPLETE</u>	
Phone:	
Fax:	
Email:	
Accounts Payable Email:	
Physical Address:	
<u>COMMERCIAL CUSTOMERS ONLY</u>	
Company Number:	
Date Established:	
Requested Credit Limit:	
Contact Operations/Purchasing:	
Position:	
Phone:	
Contact Accounts:	
Position:	
Phone:	
<u>DETAILS OF OWNER (IF SOLE TRADER) PARTNERS (IF PARTNERSHIP) OR DIRECTORS (IF COMPANY)</u>	
Full Name:	
Home Address:	
Postcode:	
<u>TRADE REFERENCES – (Please exclude, Freight Accounts and Utility Bills)</u>	
Business Name 1:	
Address or A/C No:	
Phone:	
Fax:	
Business Name 2:	
Address or A/C No:	
Phone:	
Fax:	
Business Name 3:	
Address:	
Phone:	
Fax:	

I certify that the above information is true and correct and that I am authorised to make this application for credit. I have read and understand the **TERMS AND CONDITIONS OF TRADE of CAMBRIAN ENGINEERING COMPANY LIMITED** which form part of and are intended to be read in conjunction with this Credit account application and agree to be bound by these conditions.

Signed:	
Name:	
Position:	
Date:	

Terms and Conditions of Trade

DEFINITIONS

- 1.1 "Cambrian" shall mean **CAMBRIAN ENGINEERING COMPANY 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 Products and Services from "Cambrian".
- 1.3 "Products" shall mean:
- 1.3.1 all Products of the general description specified in a Credit Application Form supplied by "Cambrian" to the Customer; and
- 1.3.2 all Products supplied by "Cambrian" to the Customer; and
- 1.3.3 all present and after-acquired inventory of the Customer that is supplied by "Cambrian" and
- 1.3.4 all Products supplied by "Cambrian" and further identified in any invoice issued by "Cambrian" to the Customer, which invoices are deemed to be incorporated into and form part of this agreement; and
- 1.3.5 all Products that are marked as having been supplied by "Cambrian" or that are stored by the Customer in a manner that enables them to be identified as having been supplied by "Cambrian" and
- 1.3.6 all of the Customer's present and after-acquired Products that "Cambrian" has performed work on or to or in which goods or materials supplied or financed by "Cambrian" have been attached or incorporated.
- The above descriptions may overlap but each is independent of and does not limit the others.
- 1.4 "Products and Services" shall also mean all products, services and advice provided by "Cambrian" to the Customer, and shall include without limitation charges for labour and work, hire charges, insurance charges, or any other fees or charges.
- 1.5 "Price" shall mean the cost of the Products as agreed between "Cambrian" and the Customer and includes all disbursements, for example, charges "Cambrian" pays to others on the Customer's behalf subject to clause 4 of this contract.

2. ACCEPTANCE

- 2.1 Upon delivery to the Customer of these Terms and Conditions by "Cambrian", any instruction received thenceforth by "Cambrian" from the Customer for the supply of Products and Services shall be construed to form a binding contract incorporating these Terms and Conditions in so far as they may apply without further information, assents or documents being supplied by the Customer and "Cambrian" may refuse any such instruction without notice or explanation if such further information, assents or documents are not provided by the Customer to make these Terms and Conditions binding in law.

3. COLLECTION AND USE OF INFORMATION

- 3.1 The Customer authorises "Cambrian" to collect, retain and use any information about the Customer, or for the purpose of assessing the Customer's credit worthiness, enforcing any rights under this contract, or marketing any Products and Services provided by "Cambrian" to any other party.
- 3.2 The Customer authorises "Cambrian" 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 any Privacy Act.
- 3.4 To qualify for trade terms new customers will be required to complete an account application.

4. PRICE AND FREIGHT

- 4.1 Where no price is stated in writing the Products and Services shall be deemed to be sold at the actual cost to have the product and Services manufactured/rendered with a usual margin or at the current amount as such Products and Services are sold by "Cambrian" at the time of the contract.

- 4.2 The price may be increased by the amount of any increase in the actual cost of supply of the Product and Services not anticipated in the price that is beyond the control of "Cambrian" between the date of the contract and delivery of the Products and Services.

- 4.3 If no price is stated in writing however the customer has committed to an order, it is the obligation of the customer to pay an invoice.

5. PAYMENT

- 5.1 Payment for Products and Services shall be made in full without any deduction, whether by way of set-off, counterclaim, or any other equitable or legal claim on or before the 30th day 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 1.5% per month or part month.
- 5.3 Any expenses, disbursements and legal costs incurred by "Cambrian" in the enforcement of any rights contained in this contract shall be paid by the Customer, including any reasonable solicitors' 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 "Cambrian" for Products 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 GST unless specifically stated to the contrary;
- 6.1.3 "Cambrian" reserve the right to alter the quotation because of circumstances beyond its control.
- 6.2 Where Products and Services are required in addition to the quotation the Customer agrees to pay for the additional cost of such Products and Services.
- 6.3 Where a quotation is accepted by the Customer it will apply only if the Products and Services are delivered within ninety (90) days of the quote being accepted.

7. RISK

- 7.1 The Products and Services remain at "Cambrian's" risk until delivery to the Customer.
- 7.2 Delivery of Products and Services shall be deemed complete when "Cambrian" gives possession of the Products and Services directly to the Customer or possession of the Products 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 "Cambrian" making time of the essence.

8. AGENCY

- 8.1 The Customer authorises "Cambrian" to contract either as principal or agent for the provision of Products and Services that are the subject of this contract.
- 8.2 Where "Cambrian" 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. RETENTION OF TITLE

Terms and Conditions of Trade

9.1 Notwithstanding any period of credit, ownership of Products remains with “Cambrian” and will not pass to the Customer until all Products supplied to the Customer by “Cambrian” have been paid for in full and until that time the Customer agrees that:

9.1.1 The Customer holds the Products as bailee for and is in a fiduciary relationship with “Cambrian”

9.1.2 The Customer will store the Products so that they can be readily identifiable as belonging to “Cambrian”

9.2 If the Products 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 Products shall remain with “Cambrian” until the Customer has made payment for all Products, and where those Products are mixed with other property so as to be part of or a constituent of any new Products, title to these new Products shall deemed to be assigned to “Cambrian” as security for the full satisfaction by the Customer of the full amount owing between “Cambrian” and Customer.

9.3 The Customer gives irrevocable authority to “Cambrian” to enter any premises occupied by the Customer or on which Products are situated at any reasonable time after default by the Customer or before default if “Cambrian” believes a default is likely and to remove and repossess any Products and any other property to which Products are attached or in which Products are incorporated. “Cambrian” 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.

9.4 “Cambrian” may either resell any repossessed Products 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 Products and credit the Customer’s account with the invoice value thereof less such sum as “Cambrian” reasonably determines on account of wear and tear, depreciation, obsolescence, loss or profit and costs.

9.5 The Customer will give “Cambrian” at least seven (7) days notice of before applying to the Court for the appointment of a provisional liquidator and is not entitled to remain in possession of “Cambrian” Products from the date of such notice.

10. PERSONAL PROPERTY SECURITIES

10.1 The Customer agrees that these conditions constitute and create a security agreement and grant a security interest in favour of “Cambrian” in all of the Customer’s present and after-acquired property described in clauses 1.3 and 1.4 and all proceeds and accounts receivable in relation to that property in order to secure the payment by the Customer of all amounts owing at any time to “Cambrian” in respect of such property in the event of default.

10.2 The Customer shall provide all information necessary to enable “Cambrian” to perfect and maintain the perfection of any and each security interest granted to “Cambrian” by the Customer and the Customer will give written notice to “Cambrian” immediately upon any change of its name.

10.3 “Cambrian” may take possession of and either sell or retain the Products and apply any expenses incurred in the exercise of any such powers out of the revenue from or proceeds of realisation of the Products.

10.4 The Customer and “Cambrian” agree to exercise their rights of any Personal Property Securities to waive the application..

11. DEFAULT

11.1 Any one of the following shall constitute default by the Customer:

11.1.1 Non-payment of any sum by due date;

11.1.2 The Customer intimates it will not or cannot pay any sum by the due date;

11.1.3 Any Products are seized by any other creditor of the Customer or any other creditor intimates that it intends to seize Products and Services;

11.1.4 Any Products in the possession of the Customer are materially damaged while any sum due from the Customer to “Cambrian” remains unpaid;

11.1.5 The Customer is bankrupted or put into liquidation or a receiver is appointed to any of the Customer’s assets or a landlord distains against any of the Customer’s assets.

12. PAYMENT ALLOCATION

12.1 “Cambrian” may in its discretion allocate any payment received from the Customer towards any invoice that “Cambrian” 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 “Cambrian”, payment shall be deemed to be allocated in such manner as preserves the maximum value of “Cambrian’s” purchase money security interest in products.

13. DISPUTES

13.1 No claim relating to Products and Services will be considered unless made within seven (7) days of delivery.

13.2 Products and Services in sound condition are sold on an irrevocable basis and will not be accepted for return. Requests for returns will be considered for non-specialised products that can be re-sold within a reasonable period and, if accepted, are subject to a 10% handling charge and return of products in good order and resaleable condition.

14. LIABILITY

14.1 Any Consumer Guarantees Act, the Fair Trading Act and other statutes may imply warranties or conditions or impose obligations upon “Cambrian” 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 “Cambrian”, “Cambrian’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.

14.2 Except as otherwise provided by clause 14.1 “Cambrian” shall not be liable for:

14.2.1 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 whether such loss or damage arises directly or indirectly from Products and Services provided by “Cambrian” to the Customer; and

14.2.2 The Customer shall indemnify “Cambrian” 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 “Cambrian” or otherwise, brought by any person in connection with any matter, act, omission, or error by “Cambrian” its agents or employees in connection with the Products and Services.

15. DOMESTIC GUARANTEE

16.1 Any written guarantee provided by “Cambrian” to domestic customers also forms part of these terms and conditions of trade. No written guarantees are provided to business customers.

16. MISCELLANEOUS

16.1 “Cambrian” shall not be liable for delay or failure to perform its obligations if the cause of the delay or failure is beyond its control.

16.2 Failure by “Cambrian” 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 “Cambrian” has under this contract.

16.3 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.

Signed:

Name:

Position:

Date:

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