



# CHEVPAC MACHINERY (NZ) LTD

The Machine Tool Specialists

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Includes Engineering Tooling Supplies Pty. Ltd.

## Application for Trading Account

### Section A - Applicant Details: (Circle one) Sole Trader / Partnership / Private Company / Public Company

1	FULL NAME ("Applicant")	
2	TRADE NAME (if differs from no. 1)	
3	DATE OF BIRTH (for sole trader or partners)	
4	DELIVERY ADDRESS	
5	POSTAL ADDRESS (if differs from no. 4)	
6	TELEPHONE	
7	FACSIMILE	
8	WEBSITE	
9	KEY CONTACT	
10	MOBILE	
11	EMAIL (GENERAL)	
12	ACCOUNTS EMAIL	
13	NATURE OF BUSINESS	
14	PERIOD OF OWNERSHIP	
15	PREMISES OWNED/LEASED (if leased, give landlord contact details)	
16	NUMBER OF EMPLOYEES	
17	BANK	Branch:
18	ESTIMATED MONTHLY PURCHASES	\$
19	PERSON HANDLING PAYMENT OF ACCOUNTS	
20	WOULD YOU LIKE TO RECEIVE INVOICES (and STATEMENTS) ELECTRONICALLY (ie via email)	Yes/No

### Section B - Details of Business Principals of Applicant:

Full Name	Residential Address	Position

**Section C - Trade References:**

Name	Telephone	Contact

**Section D - Application for Trading Account and Provision of Information**

1 I, \_\_\_\_\_ the Applicant, or an authorised employee/principal/partner of the Applicant, apply for a trading account on behalf of the Applicant on the basis of the above information and declare that to the best of my knowledge and belief the information contained in this Application is true and correct.

**2 Standard Terms & Conditions of Sale**

I confirm that all supplies made by you to the Applicant will be on your standard Terms and Conditions of Sale (a copy of which is attached) as may be amended by notice in writing from time to time. I confirm that I have read, understood and accepted those standard Terms and Conditions of Sale on behalf of the Applicant.

**3 Security Interest**

The Applicant acknowledges that the Terms and Conditions of Sale give rise to a security interest in the goods supplied.

**4 Supply for Business Purposes**

Where any supply of goods to you would otherwise be subject to the provisions of the Consumer Guarantees Act 1993, the Applicant agrees and acknowledges that the goods are being supplied to the Applicant for business purposes and that the provisions of the Consumer Guarantees Act 1993 will not apply.

**4 Collection of Information**

4.1 I acknowledge that:

- (a) Personal information collected or held by you (whether contained in this Application or otherwise obtained) is provided and may be held, used and disclosed to enable you to process this or any other application the Applicant may make to you, to ascertain at any time the Applicant's creditworthiness and obtain at any time credit reports, character references or credit statements, to enable you to administer any trade account the Applicant may hold with you, to enable you to notify any credit reporting or referencing agency of any application the Applicant may make to you or of any default by the Applicant in any obligation to you, to enable you to arrange and maintain credit insurance in relation to the Applicant's Trading Account, to enable you to provide to the Applicant or have provided to the Applicant advice or information concerning products and services you believe may be of interest to the Applicant, to enable you to sell or assign to any person any obligation the Applicant may have to you, to enable you to communicate with the Applicant for any purpose.
- (b) The personal information provided in this Application is collected by and will be held by you at your address appearing at the top of this form.
- (c) If I fail to provide any information requested in this Application, you may be unable to process this Application.

(d) The Applicant has the right under the Privacy Act 1993 to obtain access to and request correction of any personal information held by you concerning the Applicant.

4.2 I authorise you to obtain at any time from any person or entity (including the persons nominated in this Application) any information you may reasonably require to process and/or accept any application for trading account the Applicant may make to you (including, but not limited to, this Application) or to perform or complete any of the other purposes for which the Applicant has provided Personal Information to you. I authorise any such person to release to you any personal information that person holds concerning the Applicant.

**Section E - Signature by or on behalf of Applicant:**

Full Name and Position	Signature	Date

FOR OFFICE USE ONLY:	
Application approved/declined:	
Industry Code	
Location Code	
Salesperson Code	
Date:	
Name and Signature of Approver:	

**Section F - Personal Guarantee (if required):**

\_\_\_\_\_

**DEED OF GUARANTEE**

**TO: Chevpac Machinery (NZ) Limited**

**I/We** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**(Insert full name and address of each Guarantor)**

IN CONSIDERATION of you at my/our request supplying goods to the Applicant named above ("Customer"), I/We jointly and severally agree as follows:

- 1 I/We hereby guarantee the due and punctual payment to you by the Customer, in the manner and at the times agreed upon between you and the Customer, of all amounts owing to you at any time you by the customer, in relation to goods supplied or credits given by you, or which may otherwise become payable by the Customer to you.



## CHEVPAC MACHINERY (NZ) LTD AND HERBERT MACHINE TOOL (WHOLESALE) TERMS AND CONDITIONS OF SALE

Chevpac Machinery (NZ) Limited and Herbert Machine Tool (Wholesale) (referred to as Chevpac, HMT, we or us) supplies all goods to you subject to the following terms and conditions.

- 1 **Acceptance**
- 1.1 By placing an order with us, you accept these terms and conditions, despite anything stated to the contrary on your order, terms and conditions of purchase or any similar document.
- 2 **Price**
- 2.1 All orders will be filled at prices current at the date of delivery of the goods. Prices are subject to change without notice at any time prior to acceptance of an order.
- 2.2 Unless otherwise specified in writing, all prices are exclusive of Goods and Services Tax and any other taxes payable on goods supplied or on any amount payable under clause 10, freight costs, insurance charges and maintenance costs, all of which you must pay unless we agree otherwise with you in writing.
- 3 **Terms of Payment**
- 3.1 Payment is due on the 20<sup>th</sup> of the month following the date of invoice for the goods.
- 3.2 You must make payment of all amounts owing without set-off or deduction of any kind.
- 4 **Delivery**
- 4.1 We will not be liable for any loss or damage to the goods during transportation even though our negligence or other default may cause the loss or damage.
- 4.2 Any dates given for delivery are stated in good faith but are not to be treated as a condition of the sale. If delivery of the goods is delayed for any reason at all, we will not be responsible or liable in any way to you or any other party for loss suffered due to that delay.
- 4.3 We may make delivery by instalments and may cancel delivery of the goods or any instalments of the goods without prejudice to our rights to recover all moneys you owe us for deliveries already made.
- 4.4 Where you do not take delivery of the goods by the delivery date specified or any later date we agree on, you must pay reasonable storage costs until you take delivery of the goods. We will determine the costs of storage and may invoice you.
- 4.5 We will not accept any claim for discrepancy in orders unless you make written claim to us within 7 days of delivery.
- 4.6 Delivery by us to a carrier will be deemed to be delivery to you.
- 5 **Ownership and Risk**
- 5.1 Risk in the goods will pass to you on delivery into your custody or the custody of anyone acting on your behalf even though ownership in the goods may not have passed to you.
- 5.2 We will retain legal and beneficial ownership of any and all goods and/or any other goods which the goods have been incorporated into or mixed with (mixed goods), until we receive payment in full for them and all other amounts owing to us, and until you have satisfied all obligations you owe us, even though we may have granted you a period of credit.
- 5.3 You hold the goods and/or mixed goods as fiduciary bailee and agent for us and must store the goods and/or mixed goods in such a way that they are clearly identifiable as our property. You must keep separate records in respect of the goods and/or mixed goods, until you make payment in full.
- 5.4 You will not sell, dispose of or otherwise part with possession of the goods and/or mixed goods except that you may sell them in the ordinary course of your business. Where you do sell or otherwise dispose of the goods and/or mixed goods prior to payment in full you must hold the proceeds of sale in a fund separate from your own money.
- 6 **Warranties and Conditions**
- 6.1 With the exception of any express warranty given by us in writing, no warranty or condition will be implied against us by any statute, at common law or otherwise and no representation, condition or warranty will bind us unless it is in writing and signed for us or on our behalf.
- 6.2 If you acquired, or held yourself out as acquiring, the goods for the purposes of a business, nothing in the Consumer Guarantees Act 1993 (CG Act) applies to the goods or these, and with the exception of any warranty given by the manufacturer, no warranty or condition will be implied against us by any statute, at common law or otherwise and no representation, condition or warranty will bind us unless it is in writing and signed for us or on our behalf.
- 6.3 No repair facilities or spare parts will be available in respect of the goods. We expressly contract out of the guarantee contained in section 12 of the CG Act. You warrant that you will inform your customer(s) of this exclusion of warranty at or before the time you enter into a contract for supply with your customer(s).
- 7 **Claims for Defective Goods**
- 7.1 If any goods supplied breach the warranty given by us in clause 6.1, we will either (at our discretion) repair the goods, replace the goods (if replacement goods are reasonably available) or give you credit for the purchase price paid for the goods.
- 7.2 If you wish to make a claim under clause 7.1, you must promptly return the goods to us at your cost, together with a copy of the invoice and a written claim specifically identifying the defect(s). We will then investigate the claim and take any action required under clause 7.1.
- 7.3 Claims under this clause must be made within 7 days of the date of delivery of the relevant goods.
- 7.4 If you do not comply with the requirements of this clause you will be deemed to have accepted the goods and we will not incur any liability whatsoever to you in relation to the goods.
- 8 **Credits for Returned Goods**
- 8.1 We may, at our discretion, give credit (subject to a 10% handling charge that we may charge you on any returned goods) for any goods, which are surplus to your requirements. Acceptance of any goods for return under this clause will be conditional on you delivering the goods to us at your cost in the same condition and packaging in which they were dispatched, with a copy of our invoice, within fourteen (14) days of our acceptance.
- 9 **Security**
- 9.1 You hereby grant to Chevpac a security interest in all goods supplied at any time by Chevpac to secure payment of the purchase price payable for the goods.
- 9.2 On the request of Chevpac you must promptly execute any documents and do anything else required by us to ensure that the security interest created by these terms and conditions constitutes a registered purchase money security interest over the goods including providing information which Chevpac reasonably requires to complete a financing statement. You waive any right to receive a copy of any verification statement under the Personal Property Securities Act (PPSA).
- 9.3 You must pay to us on demand all costs, expenses and charges incurred by us in relation to filing a financing statement or financing change statement.
- 9.4 Nothing in sections 114(1)(a), 117(1)(c), 133 and 134 of the PPSA will apply.
- 9.5 Your rights as a debtor of Chevpac in sections 116, 119, 120(2), 121, 125, 126, 127, 129, 131 and 132 of the PPSA shall not apply.
- 10 **Limitation of Liability**
- 10.1 Without restricting the limitations of liability contained elsewhere in these terms and conditions, our liability in relation to the supply of the goods and the goods themselves is limited to the purchase price of the goods in respect of which such liability arises. We have no further liability or responsibility for any direct, indirect or consequential injury, loss or damage whatsoever and howsoever arising.
- 10.2 We are not responsible for any damage whatsoever caused either to the goods supplied or as a result of the malfunction of the goods if:
  - (a) The goods are adapted to a use for which they are not specifically intended; or
  - (b) The goods are added to or repaired using components not recommended or approved by the manufacturer; or
  - (c) The goods are improperly stored or transported.
- 11 **Default**
- 11.1 Where we consider you may be unable to meet your payment obligations to us, we may, without limiting our other rights and remedies, do all or any of the following:
  - (a) Require you to stop selling or otherwise disposing of the goods or mixed goods;
  - (b) Demand payment of all or part of any sums due;
  - (c) Require further security for your obligations before we make any further supplies to you;
  - (d) Without notice, withhold deliveries of goods ordered by you.
- 11.2 Where:
  - (a) You are in breach of any of these terms and conditions (including failure to make payment on due date); or
  - (b) You become insolvent or are adjudicated bankrupt or an application is made for your liquidation or a liquidator or a receiver is appointed in respect of your assets; or
  - (c) You no longer carry on business or threaten to stop carrying on business; or
  - (d) An arrangement is made or likely to be made with your creditors; or then, without prejudice to our other rights and remedies, we may do all or any of the following:
    - (e) Where you have failed to make payment on due date, require you to compensate us by making payment to us on demand of interest (as liquidated damages) on the amount due from the due date until the date of payment at a rate equal to two point five (2.5) percent above the current overdraft rate which we have with our principal registered bank (in addition to you remaining liable for the full amount outstanding);
    - (f) Cancel this and any other contract of supply with you;
    - (g) Recover and/or resell any of the goods and/or mixed goods and enter any premises where we believe the goods and/or the mixed goods are stored and you grant us an irrevocable right and authority to do so. We may only recover and resell for our own account sufficient goods or mixed goods to satisfy all unpaid liabilities, the costs of recovery and resale and the costs referred to in clause 11.3. If we recover any excess, we will not be liable in damages to you but must account to you for the excess.
- 11.3 You will pay all costs and expenses (including costs on a solicitor/client basis and debt collector costs) we incur in enforcing or attempting to enforce our rights under this clause. We may deduct any costs and expenses incurred from the proceeds of sale of any goods or mixed goods recovered from you.
- 11.4 Your payments will be applied first in reduction of interest, liquidated damages and costs due under this clause, with the balance being applied in reduction of any amounts due under clause 3.
- 12 **General**
- 12.1 We will not be in breach of these terms and conditions because of any failure on our part directly or indirectly due to wars, strikes, lockouts, delays or defaults of manufacturers or suppliers, acts of God or any other cause (whether similar or dissimilar) beyond our reasonable control.

- 12.2 You indemnify us against any liability for any direct, indirect or consequential injury, loss or damage arising out of any act, default or omission of, or any representation made by, you or your servants or agents.
- 12.3 If any of these terms or conditions is held by a Court to be ineffective because of non-registration, illegality or any other reason, then that term or condition or part of it will be severed from all other terms and conditions without affecting the validity or enforceability of all other terms and conditions or part of them.
- 12.4 No waiver by us of any term or condition will constitute a waiver of any other of these terms or conditions.
- 12.5 We may vary these terms and conditions at any time by notice in writing to you. Any such variation will take effect from acceptance of the first order for goods following notice of the variation being given to you.
- 12.6 You may not vary these terms and conditions unless we agree in writing.
- 12.7 These terms and conditions are governed by and will be construed in accordance with New Zealand law and the parties submit to the non-exclusive jurisdiction of the New Zealand Courts.