

# Commercial Credit Application

POLYMERSHAPES DISTRIBUTION CANADA INC.

(Form 1005 C 1 of 2) Please Complete All Fields

Credit Applicant's Company Name (Full Legal Name)			Doing Business As		
Billing/PO Box Address			Shipping Address		
City	Province	Postal Code	City	Province	Postal Code
Phone	Ext.	Fax	AP Contact Name	AP E-mail Address	
Parent Company (If Applicable)			Will you have purchases that are tax exempt? Y N	If YES, tax certificate must be returned with application.	
Division of		Subsidiary of	County	NAICS Code:	
HST/GST #:			PST #:		
Check One: <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Corporation/LLC <input type="checkbox"/> Partnership <input type="checkbox"/> Government <input type="checkbox"/> Other				DUNS Number	
Date Business Started		Type of Business		Number of Employees	
Monthly Credit Line Requested \$ _____ (Note: We may require financial statements and other related information)					
Has this business or any of its principals ever filed for bankruptcy? Y N If YES, when? _____ Chapter?			Is the business or any principal involved in any material lawsuits or have any outstanding judgments or material liens? Y N		
Has this business or any owner, principal, officer, director or manager ever been convicted of a felony or been involved in drug trafficking or money laundering? Y N If yes, please explain:					

**THE INFORMATION REQUESTED ABOVE IS REQUIRED TO COMPLETE THE POLYMERSHAPES CREDIT APPLICATION PROCESS**

**BANK REFERENCE (For your convenience, you may attach this information)**

Name	City	Province	Phone	Contact E-Mail or Fax

**COMMERCIAL TRADE REFERENCES (For your convenience, you may attach this information)**

Name	City	Province	Phone	Contact E-Mail or Fax
Name	City	Province	Phone	Contact E-Mail or Fax
Name	City	Province	Phone	Contact E-Mail or Fax

*Polymershapes Conditions of Sale shall be applicable to all sales irrespective of receipt of contrary terms, unless expressly agreed to in writing by a duly authorized representative of POLYMERSHAPES DISTRIBUTION CANADA INC. A copy of the Terms and Conditions of Sale are located on the next page of this application.*

Submitted By \_\_\_\_\_ Commercial Approval \_\_\_\_\_ Credit Approval \_\_\_\_\_

**THE REVERSE SIDE OF THIS DOCUMENT MUST BE SIGNED**

## TERMS AND CONDITIONS OF SALE

**1. DEFINITIONS.** As used below, "Seller" means POLYMER SHAPES DISTRIBUTION CANADA INC. "Product" means any Products sold by Seller, and "Buyer" means a party purchasing any Product from Seller.

**2. APPLICABLE TERMS.** All sales by Seller to Buyer, whether initiated by written purchase order, electronic means, telephone or any other method, will be subject to the following: (i) If a formal agreement is then in effect between Buyer and Seller and applicable to such sale (a "Sales Agreement"), then any term in the Sales Agreement that conflicts with these terms will apply, and these terms will otherwise apply; or (ii) If no Sales Agreement is in effect, these terms, and the Product description and quantity specified in Buyer's order as accepted by Seller, will make up Buyer's complete contract with Seller.

In order to promote their safe and effective use, all Products are provided solely for use or consumption by Buyer, and any resale or other transfer of any such Products by Buyer is prohibited and will constitute a material breach of these terms. These terms may be modified only by the written agreement of Buyer and Seller. By purchasing Products from Seller, Buyer confirms its agreement with these terms, and agrees that, even if Buyer sends Seller another form of agreement or terms, or modifications to these terms, and Seller does not respond, these terms shall govern. The United Nations Convention on Contracts for the International Sale of Goods will not apply to any sale of Products.

**3. PRICES AND DELIVERY.** Product prices are determined by the applicable Sales Agreement, if any. In the absence of a Sales Agreement, prices are determined by Buyer's confirmed order or, in the absence of a confirmed order, by Seller's list prices in effect at the time of shipment. If Seller implements a general or industry specific price adjustment for any Product, all orders for such Product that are confirmed but not shipped as of the effective date of such adjustment shall be re-priced accordingly. All prices are EXW (INCOTERMS 2010) point of shipment, and, unless expressly agreed in writing, payment will be due in Canadian Dollars within thirty (30) days of the invoice date. Buyer also agrees to reimburse Seller for Seller's costs of collection, including reasonable legal fees, and all amounts not paid when due shall bear interest at the lesser of eighteen percent (18%) per annum or at the highest rate permitted by law. Risk of loss or damage to Products will pass to Buyer at the time such Products are first delivered to a commercial transportation carrier for shipment, except that risk of loss or damage to Products shipped from Canada to locations outside of Canada will occur immediately after such Products first leave Canadian territory (including its territorial waters and airspace, as applicable). All delivery dates are estimates only. Buyer agrees that a variation of up to 10% in quantity delivered is acceptable to Buyer, and shall constitute fulfillment of an order.

**4. TITLE AND SECURITY INTEREST.** Until Seller collects in full all amounts owed by Buyer to Seller for the Product, Seller retains title to the Product; and Buyer grants to Seller a continuing security interest in the Product and the proceeds thereof (including insurance proceeds), as security for the payment and performance of all present and future obligations of Buyer to Seller. Buyer hereby waives the right to receive notice of any registration under personal property security legislation.

**5. LIMITED WARRANTY.** Seller warrants that all Products sold to Buyer will be free of any claim of ownership by third parties and will conform to the manufacturer's specifications in effect at the time of manufacture, or such other specifications as set forth in the applicable product certification delivered to Buyer. Buyer will inspect all Products for damage, defect or shortage promptly after Buyer receives them, and will give Seller prompt notice of any damage, defect or shortage that Buyer finds. The conditions of any test for conformance with specifications shall be mutually agreed upon and Seller will be notified of, and may be represented at, all such tests. If any Product is determined not to conform to the warranty set forth above during the period ending at the earlier of (i) the date of use of the Product by Buyer, or (ii) six months from date of shipment by Seller, then Seller shall, at its option, either replace the defective Product or refund the purchase price. Defective Products shall not be returned by Buyer until authorized by Seller. This remedy is Buyer's exclusive remedy for breach of warranty. **THIS LIMITED WARRANTY IS GIVEN ONLY TO THE ORIGINAL PURCHASER, IT MAY NOT BE TRANSFERRED OR ASSIGNED AND DOES NOT EXTEND TO ANY SUBSEQUENT PURCHASER OR TRANSFEREE OF PRODUCTS. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES OR CONDITIONS, WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

**6. LIMITATION OF CLAIMS.** Except as agreed in the Limited Warranty set forth above, Seller will not be responsible for any harm arising out of Buyer's purchase, possession or use of any Product, whether based in contract, warranty, negligence or other tort, strict liability or otherwise. **FOR GREATER CERTAINTY, SELLER WILL NOT BE LIABLE IN ANY CIRCUMSTANCES FOR DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL OR EXEMPLARY DAMAGES, OF FOR LOSS OF PROFITS, EQUIPMENT DOWNTIME, COST OF ANY SUBSTITUTE FOR PRODUCTS, CLAIMS OF THIRD PARTIES OR INJURY TO PERSONS OR PROPERTY. THIS LIMITATION SHALL APPLY NOTWITHSTANDING A FINDING THAT ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.**

**7. ADVICE AND OTHER SERVICES.** Buyer agrees that Seller will not have control over the design, testing or labelling of any product produced using Seller's Products, and that Buyer is not relying on any representation or statement made by, or on behalf of, Seller with respect to the suitability of any Product for any purpose, or on any advice, recommendation or information obtained from Seller's product literature or web sites, including any design aid or other service made available by Seller. Buyer has tested and investigated the Products enough to form an independent judgment concerning their suitability for the use, conversion or processing intended by Buyer and will not make any claim against Seller based on Seller's advice, statements, information, services or recommendations.

**8. INTELLECTUAL PROPERTY.** Any suggestions Seller makes about possible articles, designs or uses of Products do not give Buyer a license under any patent or other intellectual property right covering such articles, designs or uses, nor are they a recommendation that Buyer use any

Product in a manner that may infringe any patent or other intellectual property right. If there is a claim that any Product, in the form in which Seller sold it to Buyer, infringes another person's patent or other intellectual property right in the jurisdiction in which such sale took place, then (i) Seller will defend Buyer against such claim, and indemnify Buyer against all reasonable costs of such defence incurred by Buyer, and (ii) if any Product subject to such a claim is determined to infringe another person's patent or other intellectual property right, Seller shall, at its sole option and expense, either procure for Buyer the right to continue using the Product or accept return of the Product from Buyer and refund the purchase price thereof. The foregoing states the entire obligation of Seller for intellectual property infringement. Seller shall not be responsible for, and Buyer shall hold Seller harmless against, any damages and costs incurred by Seller as a result of any claim of infringement of another person's patent or other intellectual property right that arises from Seller's compliance with any specification or instruction provided by Buyer. In the event that Buyer shall become aware of any claim of the type described above, it will promptly notify Seller in writing and give Seller all necessary information, assistance and exclusive authority for the defence of any such claim and its settlement.

**9. EVENTS BEYOND SELLER'S CONTROL.** Seller will not be responsible if Seller's performance of any obligation hereunder (other than the payment of money) becomes impossible or commercially unreasonable due to any cause or event beyond Seller's reasonable control, including, without limitation, in the event of force majeure, acts of God, acts of any governmental authority, acts of Buyer, acts of terrorism, war, civil disturbance, labour disruption or strike, fire, explosion, release of dangerous or hazardous materials, inability to obtain necessary raw materials, utilities, transportation, machinery or services, and any similar or dissimilar cause or event.

**10. HEALTH AND SAFETY COMPLIANCE.** Seller will give Buyer Material Safety Data Sheets ("MSDSs") for Products sold hereunder. Buyer understands that some Products may be hazardous materials or hazardous substances under various laws and regulations when handled or processed. Buyer agrees to familiarize itself (without further reliance on Seller) with any hazards of the Products, their processing and applications and the containers in which the Products are shipped. Buyer agrees to provide the MSDSs to all those required by law to receive same and to inform and train its employees, and properly warn and instruct its customers, as to hazards identified in the MSDSs or discovered by Buyer in its investigations. Buyer agrees to properly manage and dispose of all wastes and residues resulting from its use of all Products, including any disposable packaging, in accordance with applicable disposal or recycling laws.

**11. EXPORT CONTROL COMPLIANCE.** Buyer will ensure that any Products, technology or software received from Seller are exported by Buyer only in compliance with applicable laws, including Canadian and U.S. export control laws. Buyer certifies that it will not use, or knowingly support the use by others of, such Products, technology or software in the design, development, production or use of nuclear, chemical or biological weapons, land mines or ballistic missiles. At all times, Seller will be entitled to decline to sell or ship to any party.

**12. ELECTRONIC COMMERCE.** Buyer may not share any password, access code or similar credential issued to it by Seller, and Seller reserves the right to suspend or revoke any such credential. Buyer is solely responsible for ensuring the security and integrity of its ordering process. Any information provided by Seller via any Internet site or electronic communication (i) is subject to correction or change without notice, and (ii) is provided for the sole use of Buyer for purposes of facilitating individual transactions involving the purchase and sale of Products. Buyer agrees that it will not rely upon any such information for any purpose other than making individual purchases and will not seek to assert such information against Seller for any other purpose. Seller may issue electronic invoices for any purchases of Products made using the Internet, e-mail or any other computer-based electronic communications method, and agrees to honour such invoice as if it had been delivered in writing.

**13. MEDICAL APPLICATIONS.** Buyer understands that the Products are not intended for use in any medical application involving permanent implantation in the human body, or any such implantation lasting longer than 29 days, and agrees not to use any Product for any such application, or for any other application into which, to Buyer's knowledge, Seller has previously declined to sell Products.

**14. GENERAL.** Cancellation of any order, or return of any conforming Product purchased hereunder, will be subject to acceptance by Seller and to a restocking charge in accordance with Seller's policy then in effect. Neither course of performance or dealing, nor usage of trade, nor prior writings or agreements shall be used to qualify, explain or supplement any of these terms and conditions. Failure by either party, at any time or from time to time, to require the performance by the other of any term hereof shall not constitute a waiver of such term or provision. The invalidity, in whole or in part, of any term herein, shall not affect any other term, each of which shall be enforced to the full extent permitted by law. Buyer may not assign or transfer any rights or obligations under any Sales Agreement or other agreement governed by these terms without the prior written consent of Seller. These terms shall be governed by, and interpreted in accordance with the laws of the province of Ontario, without giving effect to its conflicts of laws principles. The parties hereby irrevocably submit and agree to attorn to the non-exclusive jurisdiction of the courts of Ontario.

**15. CHOICE OF LANGUAGE.** The parties hereby acknowledge that they have required this Agreement and all other agreements and notices required or permitted to be entered into or given pursuant hereto to be drawn in the English language. Les parties reconnaissent avoir demandé que les présentes conditions ainsi que toute autre entente ou avis émis en vertu des présentes soient rédigés en langue anglaise.

**16. COUNTERPARTS.** This Agreement and any amendment of this Agreement in whole or in part may be signed and delivered in any number of counterparts, each of which when signed and delivered is an original but all of which taken together constitute one and the same instrument. This Agreement and any amendment of this Agreement in whole or in part may be delivered by fax or by sending a computer-scanned copy electronically.

**THIS APPLICATION MUST BE SIGNED BY AN OFFICER, OWNER OR DULY AUTHORIZED REPRESENTATIVE**

Company Name \_\_\_\_\_ I certify that the above information is true and correct and that we can and will comply with the above terms. I authorize information pertaining to our credit and financial position to be released to POLYMER SHAPES DISTRIBUTION CANADA INC.

X  
 Authorized Signature \_\_\_\_\_ Please Print Name and Title \_\_\_\_\_ Date \_\_\_\_\_

The undersigned Guarantor in order to induce POLYMER SHAPES DISTRIBUTION CANADA INC to extend credit under this Application does hereby unconditionally personally guarantee all sums that may be owed by the applicant to POLYMER SHAPES DISTRIBUTION CANADA INC, whether said indebtedness is due now or hereafter incurred. This guaranty is continuing, and shall continue to apply to all indebtedness which applicant may hereafter incur, renew, or extend in whole or in part with POLYMER SHAPES DISTRIBUTION CANADA INC, all without notice to the undersigned Guarantor. POLYMER SHAPES DISTRIBUTION CANADA INC may modify the terms of credit extended, modify the indebtedness, accept or release collateral, or release the credit applicant without releasing the undersigned Guarantor. The liability of the Guarantor shall be primary and shall not be affected by the bankruptcy of the credit applicant. **THE UNDERSIGNED WAIVED NOTICE OF ACCEPTANCE OF THIS GUARANTY.**

Signature (Personally and as an Individual) \_\_\_\_\_ Print Name \_\_\_\_\_ Driver License Number \_\_\_\_\_ Date \_\_\_\_\_