



Credit Account Application

TO BE COMPLETED BY APPLICANTS

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

CLIENT'S TRADE NAME: DATE:

CLIENT'S FULL or LEGAL NAME:

ALL CLIENTS TO COMPLETE

Phone: Fax:

Mobile: Email:

BILLING ADDRESS: PHYSICAL ADDRESS:

STATE: POSTCODE: STATE: POSTCODE:

COMMERCIAL CLIENTS ONLY

ABN:

Requested Credit Limit: Date Established:

Contact 1: Contact 2:

Position: Position:

Phone: Phone:

DETAILS OF OWNER (If Sole Trader) PARTNERS (If Partnership) OR DIRECTORS (If Proprietary Company)

Full Name: Full Name:

Home Address: Home Address:

Home Phone: Home Phone:

TRADE REFERENCES (Fuel Suppliers, Landlords, Power, Phone & Credit Cards not accepted)

Business Name 1: Business Name 2:

Address or A/C No: Address or A/C No:

Phone: Phone:

Fax: Fax:

I certify that the above information is true and correct and that I am authorised to make this application for credit. I authorise the use of my personal information as detailed in the Privacy Act clause overleaf. I have read and understand the TERMS AND CONDITIONS OF HIRE (overleaf) of CJP Hire (Aust) Pty Ltd 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. ***I agree that if I am a director or a shareholder (owning at least 15% of the shares) of the Client I shall be personally liable for the performance of the Client's obligations under this contract.***

SIGNED: SIGNED:

Name: Name:

Position: Position:

ID (Driver's Licence): ID(Driver's Licence):

Date: Date:

CJP Hire (Aust) Pty Ltd
ABN 63 106 486 757 – Licence No. BLD 180514
PO Box 33, Pooraka SA 5095 – Ph (08) 8182 3455 – Fax (08) 8182 3477

CJP Hire (Aust) Pty Ltd – Terms & Conditions of Hire

- 1.1 **Definitions**
"CJP" shall mean CJP Hire (Aust) Pty Ltd, its successors or assigns or any person acting on behalf of and with the authority of CJP Hire (Aust) Pty Ltd.
- 1.2 "Client" shall mean the Client or any person acting on behalf of and with the authority of the Client.
- 1.3 "Guarantor" means that person (or persons), or entity who agrees herein to be liable for the debts of the Client on a principal debtor basis.
- 1.4 "Equipment" shall mean Equipment supplied on hire by CJP to the Client (and where the context so permits shall include any supply of services) and is as described on the invoice, quotation, authority to hire, or any other work authorisation forms as provided by CJP to the Client.
- 1.5 "Operator" shall mean an employee, representative, agent or sub-contractor of CJP who is authorised to act on behalf of CJP.
- 1.6 "Price" shall mean the cost of the hire of the Equipment as agreed between CJP and the Client subject to clause 3 of this contract.
2. **Acceptance**
2.1 Any instructions received by CJP from the Client for the hire of Equipment and/or the Client's acceptance of Equipment supplied on hire by CJP shall constitute acceptance of the terms and conditions contained herein. Where more than one Client has entered into this agreement, the Clients shall be jointly and severally liable for all payments of the Price.
2.2 Upon acceptance of these terms and conditions by the Client the terms and conditions are irrevocable and can only be amended with the written consent of CJP.
2.3 The Client undertakes to give CJP at least fourteen (14) days notice of any change in the Client's name, address and/or any other change in the Client's details.
3. **Price And Payment**
3.1 At CJP's sole discretion the Price shall be either:
(a) as indicated on invoices provided by CJP to the Client in respect of Equipment supplied on hire; or
(b) CJP's quoted Price (subject to clause 3.2) which shall be binding upon CJP provided that the Client shall accept in writing CJP's quotation within thirty (30) days.
3.2 CJP reserves the right to change the Price in the event of a variation to CJP's quotation.
3.3 At CJP's sole discretion a deposit may be required.
3.4 At CJP's sole discretion a bond may be required which shall be refunded upon return of the Equipment in a condition acceptable to CJP.
3.5 At CJP's sole discretion:
(a) payment for approved Client's shall be due fourteen (14) days following the date of the invoice; or
(b) payment for approved Client's shall be due on thirty (30) days following the end of the month in which a statement is posted to the Client's address or address for notices.
3.6 Time for payment for the Equipment shall be of the essence and will be stated on the invoice or any other forms. If no time is stated then payment shall be due seven (7) days following the date of the invoice.
3.7 The date upon which the Client advises of termination shall in all cases be treated as a full day's hire.
3.8 Payment will be made by cash, or by cheque, or by bank cheque, or by direct credit, or by any other method as agreed to between the Client and CJP.
3.9 On or before commencement the Client shall pay the Hire fees and damage waiver fee, where applicable.
3.10 Where applicable, the Client shall be required to pay the cost of fuels and consumables provided by CJP and used by the Client.
3.11 Standard trading hours of CJP are 7:00am to 3:30pm Monday to Friday. If labour or works are required outside of these hours the Client shall be required to pay additional charges.
3.12 GST and other taxes and duties that may be applicable shall be added to the Price except when they are expressly included in the Price.
4. **Hire Period**
4.1 For Equipment in which a meter or timing device is installed the hire period shall be the number of kilometres or hours, or part thereof recorded on the meter or timing device whilst the Equipment is in the Client's possession.
4.2 Where the Equipment does not have a meter or timer installed hire charges shall commence from the time the Equipment is collected by the Client from CJP's premises and will continue until the return of the Equipment to CJP's premises, and/or until the expiry of the Minimum Hire Period, whichever last occurs.
4.3 If CJP agrees with the Client to deliver and/or collect the Equipment, hire charges shall commence from the time the Equipment leaves CJP's premises and continue until the Equipment has returned to CJP's premises, and/or until the expiry of the Minimum Hire Period, whichever last occurs.
4.4 No allowance whatever can be made for time during which the Equipment is not in use for any reason, unless CJP confirms special prior arrangements in writing. In the event of Equipment breakdown provided the Client notifies CJP immediately, hiring charges will not be payable during the time the Equipment is not working, unless the condition is due to negligence or misuse on the part of or attributable to the Client.
5. **Delivery Of Equipment**
5.1 At CJP's sole discretion delivery of the Equipment shall take place when:
(a) the Client takes possession of the Equipment at CJP's address; or
(b) the Client takes possession of the Equipment at the Client's address.
5.2 At CJP's sole discretion the costs of Delivery are:
(a) included in the Price, or
(b) are in addition to the Price, or
(c) are for the Client's account.
5.3 The Client shall make all arrangements necessary to take delivery of the Equipment whenever it is tendered for delivery. In the event that the Client is unable to take delivery of the Equipment as arranged then CJP shall be entitled to charge a reasonable fee for redelivery.
5.4 Delivery of the Equipment to a third party nominated by the Client is deemed to be delivery to the Client for the purposes of this agreement.
5.5 CJP shall not be responsible or liable for delays due to poor or extreme weather conditions. CJP will endeavour to reschedule the delivery or works at its earliest possible convenience.
5.6 The Client shall be responsible for free access by CJP to the site on which the Equipment is located. If there are any delays due to free access not being available then the Client shall be responsible and shall reimburse CJP for all lost hire fees associated with the Equipment being unavailable. The Client shall also be responsible for all other expenses and costs incurred by CJP due to delays in access to the Equipment. The off-hire receipt will be issued when the Equipment is picked up by CJP or returned to CJP's premises.
5.7 The failure of CJP to deliver shall not entitle either party to treat this contract as repudiated.
5.8 CJP shall not be liable for any loss or damage whatever due to failure by CJP to deliver the Equipment (or any of it) promptly, or at all, where due to circumstances beyond the control of CJP.
6. **Risk**
6.1 CJP retains property in the Equipment nonetheless all risk for the Equipment passes to the Client on delivery.
6.2 The Client accepts full responsibility for the safekeeping of the Equipment and indemnifies CJP for all loss, theft, or damage to the Equipment whatsoever caused and without limiting the generality of the foregoing whether or not such loss, theft, or damage is attributable to any negligence, failure, or omission of the Client.
6.3 The Client will insure, or self insure, CJP's interest in the Equipment against physical loss or damage including, but not limited to, the perils of accident, fire, theft and burglary and all other usual risks and will effect adequate Public Liability Insurance covering any loss, damage or injury to property arising out of the use of the Equipment. Further the Client will not use the Equipment nor permit it to be used in such a manner as would permit an insurer to decline any claim.
6.4 The Client accepts full responsibility for and shall keep CJP indemnified against all liability in respect of all actions, proceedings, claims, damages, costs and expenses in respect of any injury to persons or damage to property arising out of the use of the Equipment during the hire period however arising and whether or not arising from any negligence, failure or omission of the Client or any other persons.
7. **Title**
7.1 The Equipment is and will at all time remain the absolute property of CJP.
7.2 If the Client fails to return the Equipment to CJP then CJP or CJP's agent may enter upon and into and premises owned, occupied or used by the Client, or any premises where the Equipment is situated or the invitee of the Client and take possession of the Equipment, without being responsible for any damage thereby caused.
7.3 The Client is not authorised to pledge CJP's credit for repairs to the Equipment or to create a lien over the Equipment in respect of any repairs.
8. **Defects**
8.1 The Client shall inspect the Equipment on delivery and shall within forty eight (48) hours notify CJP of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Client shall afford CJP an opportunity to inspect the Equipment within a reasonable time following delivery if the Client believes the Equipment is defective in any way. If the Client shall fail to comply with these provisions the Equipment shall be presumed to be free from any defect or damage. For defective Equipment, which CJP has agreed in writing that the Client is entitled to reject, CJP's liability is limited to either repairing or replacing the Equipment, except where the Client has hired the Equipment as a consumer within the meaning of the Trade Practices Act 1974 (Cwth) or the Fair Trading Acts of the relevant state or territories of Australia, and is therefore also entitled to, at the consumer's discretion either a refund of the hire price of the Equipment, or repair of the Equipment, or replacement of the Equipment.
9. **The Commonwealth Trade Practices Act 1974 ("TPA") and Fair Trading Acts ("FTA")**
9.1 Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the TPA or the FTA in each of the States and Territories of Australia, except to the extent permitted by those Acts where applicable.
10. **Warranty**
10.1 No Warranty is provided by CJP in respect of the condition of the Equipment or its fitness for any particular purpose. The Client shall indemnify and hold harmless CJP in respect of all claims arising out of use of the Equipment.
11. **Client's Responsibilities**
11.1 (a) notify CJP immediately by telephone of the full circumstances of any mechanical breakdown or accident. The Client is not absolved from the requirements to safeguard the Equipment by giving such notification.
(b) satisfy itself at commencement that the Equipment is suitable for its purposes;
(c) operate the Equipment safely, strictly in accordance with the law, only for its intended use, and in accordance with any manufacturer's instruction whether supplied by CJP or posted on the Equipment;
(d) ensure that all persons operating or erecting the Equipment are suitably instructed in its safe and proper use and where necessary hold a current Certificate of Competency and/or are fully licensed to operate the Equipment and shall provide evidence of the same to CJP upon request;
(e) comply with all occupational health and safety laws relating to the Equipment and its operation;
(f) on termination of the hire, the Client shall deliver the Equipment complete with all parts and accessories clean and in good order as delivered, fair wear and tear accepted, to CJP;
(g) keep the Equipment in their own possession and control and shall not assign the benefit of the hire contract nor be entitled to lien over the Equipment;
(h) not alter or make any additions to the Equipment including but without limitation altering, make any additions to, defacing or erasing any identifying mark, plate or number on or in the Equipment or in any other manner interfere with the Equipment;
(i) employ the Equipment solely in its own work and shall not permit the Equipment of any part thereof to be used by any other party for any other work;
(j) not fix any of the Equipment in such a manner as to make it legally a fixture forming part of any freehold.
11.2 Immediately on request by CJP the Client will pay:
(a) the new list price of any Equipment that is for whatever reason destroyed, written off or not returned to CJP;
(b) all costs incurred in cleaning the Equipment;
(c) all costs of repairing any damage caused by the ordinary use of the Equipment up to an amount equal to 10% of the new list price of the Equipment;
(d) the cost of repairing any damage to the Equipment caused by the negligence of the Client or the Client's agent;
(e) the cost of repairing any damage to the Equipment caused by vandalism, or (in CJP's reasonable opinion) in any way whatsoever other than by the ordinary use of the Equipment by the Client;
(f) the cost of fuels and consumables provided by CJP and used by the Client.
12. **Wet Hire**
12.1 In the event of "wet" hire of the Equipment the Operator of the Equipment remains an employee of CJP and operates the Equipment in accordance with the Client's instructions. As such CJP shall not be liable for any actions of the Operator in following the Client's instructions.
12.2 Any variation from the plan of scheduled works or specifications (including, but not limited to, any variation as a result of additional works required or delays due to hidden or unidentifiable difficulties beyond the reasonable control of CJP such as hard rock barriers below the surface, sub soil conditions or iron reinforcing rods in concrete) will be detailed in writing and charged for on the basis of CJP's quotation and will be shown as variations on the invoice. Work on site shall not commence without the written variation approval from the Client and payment for all variations must be made in full at the time of completion.
12.3 Prior to the Operator commencing any work that Client must advise the Operator of the precise location of all underground services on the site and clearly mark the same. The underground mains & services the Client must identify include, but are not limited to, electrical services, gas services, sewer services, pumping services, sewer connections, sewer sludge mains, water mains, irrigation pipes, Telstra cables, fibre optic cables, oil pumping mains, and any other services that may be on site. Whilst the Operator will take all care to avoid damage to any underground services the Client agrees to indemnify CJP in respect of all and any liability claims, loss, damage, costs and fines as a result of damage to services not precisely located and notified.
12.4 A site inspection shall be undertaken by CJP, with the Client present, prior to work commencing to evaluate access or safety issues. CJP reserves the right to delay the scheduled works until any issues are addressed to the satisfaction of CJP. The Client acknowledges that an extra charge may be incurred in the event CJP is required to leave or return to the site due to any access or safety issues.
12.5 The Client shall be responsible for ensuring that there is available parking for CJP's plant and Equipment.
- 12.6 The Client and CJP shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the work to be carried out.
12.7 The Client shall obtain (at the expense of the Client) all licenses and approvals that may be required for the works.
12.8 The Client agrees that the site will comply with any occupational health and safety laws relating to building/construction sites and any other relevant safety standards or legislation. In the event the Client has a company safety officer (or similar), it is agreed by both parties, that while the Operator shall cooperate with said safety officer, ultimately it shall be the sole discretion of the Operator to assess the public safety area around the Equipment and the Client is required to coordinate with the Operator to ensure this safety at all times. CJP reserves the right to halt the works until all safety issues are rectified.
13. **Insurance**
13.1 CJP shall, where the Equipment is a motor vehicle, arrange motor vehicle accident damage insurance. That insurance will not cover the Client for the following:
(a) if the driver is over 25, the first two thousand (\$2,000.00) dollars of the cost of any damage;
- (b) if the driver is under 25, the first two thousand five hundred (\$2,500.00) dollars of the cost of any damage;
(c) the loss or theft of the motor vehicle;
(d) Costs of repairing damage:
(i) to a truck above the top of the cabin;
(ii) to or caused by a truck mounted loading device;
(iii) caused other than by the normal use of the motor vehicle;
(iv) caused while the motor vehicle is being driven on any road that is unsealed or is not a public road;
(v) caused while the Client is in breach of any clause of this agreement.
14. **Cancellation**
14.1 CJP may cancel these terms and conditions or cancel delivery of Equipment at any time before the Equipment is delivered by giving written notice. On giving such notice CJP shall repay to the Client any sums paid in respect of the Price. CJP shall not be liable for any loss or damage whatever arising from such cancellation.
14.2 In the event that the Client cancels delivery of the Equipment the Client shall be liable for any loss incurred by CJP (including, but not limited to, any loss of profits) up to the time of cancellation.
15. **Default & Consequences Of Default**
15.1 Interest on overdue invoices shall accrue from the date when payment becomes due daily until the date of payment at a rate of 2.5% per calendar month and such interest shall compound monthly at such a rate after as well as before any judgement.
15.2 If the Client defaults in payment of any invoice when due, the Client shall indemnify CJP from and against all costs and disbursements incurred by CJP in pursuing the debt including legal costs on a solicitor and own client basis and CJP's collection agency costs.
15.3 Without prejudice to any other remedies CJP may have, if at any time the Client is in breach of any obligation (including those relating to payment), CJP may suspend or terminate the supply of Equipment to the Client and any of its other obligations under the terms and conditions. CJP will not be liable to the Client for any loss or damage the Client suffers because CJP has exercised its rights under this clause.
15.4 If any account remains overdue after thirty (30) days then an amount of the greater of \$20.00 or 10.00% of the amount overdue (up to a maximum of \$200) shall be levied for administration fees which sum shall become immediately due and payable.
15.5 Without prejudice to CJP's other remedies at law CJP shall be entitled to cancel all or any part of any order of the Client which remains unperformed in addition to and without prejudice to any other remedies CJP may have and all amounts owing to CJP shall, whether or not due for payment, become immediately payable in the event that:
(a) any money payable to CJP becomes overdue, or in CJP's opinion the Client is unable to meet its payment obligations as they fall due; or
(b) the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
(c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.
16. **Security And Charge**
16.1 Despite anything to the contrary contained herein or any other rights which CJP may have howsoever:
(a) where the Client and/or the Guarantor (if any) is CJP of land, realty or any other asset capable of being charged, both the Client and/or the Guarantor agree to mortgage and/or charge all of their joint and/or several interest in the said land, realty or any other asset to CJP or CJP's nominee to secure all amounts and other monetary obligations payable under the terms and conditions. The Client and/or the Guarantor acknowledge and agree that CJP (or CJP's nominee) shall be entitled to lodge where appropriate a caveat, which caveat shall be released once all payments and other monetary obligations payable hereunder have been met.
(b) should CJP elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Client and/or Guarantor shall indemnify CJP from and against all CJP's costs and disbursements including legal costs on a solicitor and own client basis.
(c) the Client and/or the Guarantor (if any) agree to irrevocably nominate a candidate and appoint CJP or CJP's nominee as the Client's and/or Guarantor's true and lawful attorney to perform all necessary acts to give effect to the provisions of this clause 16.1.
17. **Privacy Act 1988**
17.1 The Client and/or the Guarantor's agree for CJP to obtain from a credit reporting agency a credit report containing personal credit information about the Client and Guarantor's in relation to credit provided by CJP.
17.2 The Client and/or the Guarantor's agree that CJP may exchange information about the Client and the Guarantor's with those credit providers either named as trade referees by the Client or named in a consumer credit report issued by a credit reporting agency for the following purposes:
(a) to assess an application by the Client; and/or
(b) to notify other credit providers of a default by the Client; and/or
(c) to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or
(d) to assess the credit worthiness of the Client and/or Guarantor's.
17.3 The Client and/or the Guarantor's agree to CJP being given a consumer credit report to collect overdue payment on commercial credit (Section 18K (1) (h) Privacy Act 1988).
17.4 The Client agrees that personal credit information provided may be used and retained by CJP for the following purposes and for other purposes as shall be agreed between the Client and CJP or required by law from time to time:
(a) the provision of Equipment on hire; and/or
(b) marketing of services by CJP, its agents or distributors in relation to the Equipment; and/or
(c) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to provision of Equipment on hire; and/or
(d) processing of any payment instructions, direct debit facilities and/or credit facilities requested by Client; and/or
(e) enabling the daily operation of the Client's account and/or the collection of amounts outstanding in the Client's account in relation to the hire of the Equipment.
17.5 CJP may give information about the Client to a credit reporting agency for the following purposes:
(a) to obtain a consumer credit report about the Client; and/or
(b) allow the credit reporting agency to create or maintain a credit information file containing information about the Client.
18. **General**
18.1 If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable for any reason, the validity, existence, legality and enforceability of the remaining provisions shall not be affected, provided that the Client agrees to these terms and conditions and any contract to which they apply shall be governed by the laws of South Australia and are subject to the jurisdiction of the courts of South Australia.
18.2 CJP shall be under no liability whatever to the Client for any indirect loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by CJP of these terms and conditions.
18.3 In the event of any breach of this contract by CJP the remedies of the Client shall be limited to damages. Under no circumstances shall the liability of CJP exceed the Price.
18.4 The Client shall not be entitled to set off against or deduct from the Price any sums owed or claimed to be owed to the Client by CJP.
18.5 CJP may license or sub-contract all or any part of its rights and obligations without the Client's consent.
18.6 CJP reserves the right to review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which CJP notifies the Client of such change.
18.7 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, drought, storm or other event beyond the reasonable control of either party.
18.9 The failure by CJP to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect CJP's right to subsequently enforce that provision.