

# Eazy-Lift Pty Ltd

ABN: 59 081 276 299

5 Percy Street Heidelberg Heights 3081

PH: 03 9455 1455 FAX: 03 9455 1599

Hereby referred to in the attached Terms and Conditions of Sale, Authorisation and Guarantee and Indemnity as the 'Supplier'.

## CREDIT ACCOUNT APPLICATION

Company/Business Name: \_\_\_\_\_

Trading Address: \_\_\_\_\_

Business Postal Address: \_\_\_\_\_

Telephone No: \_\_\_\_\_ Fax No: \_\_\_\_\_ Email Address: \_\_\_\_\_

Business Registered: Yes No ACN/ABN: \_\_\_\_\_

Type of Business: \_\_\_\_\_ Amount of credit required per month: \_\_\_\_\_

Please tick applicable: Company ( ) Trust ( ) Partnership ( ) Sole Trader ( )

1. If Company, Nominal Capital: \$ Paid Up Capital: \$

Registered office address:

Date of Incorporation: State of Incorporation:

2. Please state whether applicant is a trustee for any trust: Yes / No

(if answer is 'Yes' please complete the following)

a. Full Name of Trust:

(Directors' Guarantees must be completed)

b. Names of affiliated or parent companies:

How long has business been trading: \_\_\_\_\_ years How long have existing proprietors operated business: \_\_\_\_\_ years

Are business premises owned/leased/rented? If leased/rented supply lessee/landlords name:

Contact: Accounts Payable Ph:

Contact: Purchasing officer Ph:

Bank: \_\_\_\_\_ Branch: \_\_\_\_\_

### FULL NAME(S) AND ADDRESS(ES) OF SOLE TRADER, PARTNER, DIRECTORS

1. D.O.B  
Telephone:

2. D.O.B  
Telephone:

3. D.O.B  
Telephone:

### TRADE REFERENCES

Company Name State: Monthly Value Telephone No Fax No

1.

2.

3.

Where this application for credit is made by a company or trust, it will not be considered without the satisfactory execution by all of the directors or trustees of the personal guarantee provided with this application.

## AGREEMENT OF CUSTOMER WITH SUPPLIER TERMS AND CONDITIONS OF SALE

In consideration of the Supplier agreeing to give 30 day credit to the applicant(s) in respect of goods or services to be purchased from the supplier, the applicant(s) jointly and severally agree to be bound by the Supplier's term and conditions of sale herein.

Trading Name:

Applicants Signature:

Date:

Print Signatory's Name:

And indicate if: Director Sole Trader partner or if Employee, Position:

In the presence of:

Print name and address of witness:

**If applicant is a company and/or trust the guarantee on page 4 MUST be completed. The guarantee must be signed by all directors and trustees and must be witnessed accordingly.**

## APPLICANT'S AUTHORISATION UNDER PRIVACY ACT 1988

This authorization relates to the Privacy Act 1988 and MUST BE COMPLETED IN FULL prior to us processing your credit application.

***Agreement that the Supplier may seek credit information(Section 18K (1) (b), Privacy Act 1988).***

If the Supplier considers it relevant to assessing my/our application for commercial credit, I/we agree to the Supplier obtaining from a credit reporting agency a credit report containing personal credit information about me/us for the purpose of assessing my/our application for commercial credit provided by the Supplier.

***Agreement that the Supplier may use a credit report about me for collecting overdue payment (Section 18K (1) (h), Privacy Act 1988).***

If the Supplier considers it relevant to collecting overdue payments in respect of commercial credit provided to me/us by the Supplier I/we agree to the Supplier obtaining from a credit reporting agency a credit report containing personal credit information about me/us for the purpose of collection of overdue payments in respect to commercial credit provided by the Supplier.

***Agreement to the Supplier seeking from or giving to other credit providers details about my/our credit worthiness (Section 18N (1) (b), Privacy Act 1988).***

I/we agree that the Supplier may give to and seek from any credit providers named in this credit application and any credit providers that may be named in a credit report issued by a credit reporting agency information about my/our credit arrangement. I/we understand that this information can include any information about my/our credit worthiness, credit standing, credit history or credit capacity that credit providers are allowed to give or receive from each other under the Privacy Act.

I/we understand the information may be used for the following purposes:

- to assess an application by me/us for credit
- to notify other credit providers of a default by me/us
- to exchange information with other credit providers as to the status of this account where I am in default with other credit providers
- to assess my/our credit worthiness.

Signed:

Usual Signature

Print Name

### Office Use Only

Credit Limit approved:

Terms Approved:

Approved by:

Declined by:

Date:

Acceptance/refusal letter sent date:

MYOB: Y / N

## TERMS & CONDITIONS OF PERSONAL GUARANTEE & INDEMNITY

In consideration of your Agreement to supply or continue to supply goods and services on credit to the customer the person(s) whose signature(s) as Guarantor(s) appear(s) below UNCONDITIONALLY GUARANTEE(S) to the supplier the due and punctual payment of all sums of money, interest and charges which are or may become payable by the Customer to the Supplier and AGREE(S) TO INDEMNIFY and keep the Supplier indemnified from and against all losses, damages, costs and expenses which have or may be suffered or incurred by the Supplier by reason of any breach by the Customer.

The GUARANTOR HEREBY AGREES with the Supplier:

1. This Guarantee and indemnify shall be a continuing Guarantee and Indemnity and shall not be prejudiced or affected by:
  - a. Any other guarantee or any security or instrument, negotiable or otherwise which the Supplier may now or hereafter hold in respect of any moneys hereby guaranteed, or any judgement obtained by the Supplier, or any release, discharge, surrender or modification of or dealing with any such guarantee, security, instrument or judgement.
  - b. Any arrangement with or release of the Customer or any other guarantor or person by the Supplier or by operation of law, whether the consent of the Guarantor shall have been obtained, or notice thereof given to the Guarantor or not, or any omission or delay on the part of the Supplier.
  - c. The fact that the moneys payable by the customer or any part thereof may cease to be recoverable from the customer or from any other guarantor or person or for any other reasons than that the same have been paid, and such extent as may be necessary to give effect to this sub-clause this Guarantee shall be treated as an indemnity.
  - d. Any change in the membership of or termination of any partnership or firm which the customer or Guarantor is a member, or the death, liquidation or bankruptcy of the customer, or the assent of the Supplier to any composition, arrangement or scheme in respect of the customer or the acceptance by the Supplier of any dividend or sum of money thereunder.
  - e. The failure of any person named as a party to execute this instrument
  - f. Any variation of the terms upon which the goods and/or services are supplied to the Customer and paid for by the Customer.
  - g. Any claim the Customer may have against the Supplier
  - h. Any act or omission by the Supplier which may result in prejudice to the Guarantor.
  - i. Any payment to the Supplier by the Customer which is later avoided by the application of any statutory provision.
  - j. The death of the Guarantor.
2. Until the Supplier shall have received one hundred cents in the dollar in respect of moneys hereby guaranteed, the Guarantor AGREES:
  - a. In the event of any bankruptcy or other administration of the Customer's estate or any winding up, official management or scheme of arrangement of the Customer the Guarantor will not without prior consent of the Supplier lodge any proof of debt or similar claim in respect of any debt or liability to the Guarantor on any account whatsoever, nor enforce any security held by the Guarantor in respect of the Customer and shall hold any such debt, liability or security and any rights or benefits in respect thereof trust for the Supplier.
  - b. If requested by the Supplier to lodge a proof or similar claim in any such administration and enforce any such security as aforesaid, and to execute all such documents and do all such things as the Supplier may require to enable the Supplier to have and receive the benefit of or arising from any such proof, claim or security.
  - c. The Guarantor's liability hereunder shall be that of principal debtor.
3. A Statement in writing signed by the manager or credit manager of the Supplier of the moneys due from or owed by the Customer or covered by this Guarantee shall be prima facie evidence of the amount so due or owing or covered by this Guarantee.
4. The Guarantor irrevocably appoints the supplier as their attorney with authority to do on behalf of the Guarantor anything the Guarantor may lawfully authorize an attorney to do, including without limitation the following:
  - a. to make, sign. Execute, seal and deliver any document;
  - b. to execute any instrument or do any act which may result in a benefit being conferred on the Supplier;
  - c. to appoint substitute attorneys;
  - d. to exercise any rights or powers as trustee held by the Guarantor; and
  - e. to take possession of, use, sell or otherwise dispose of any asset of the Guarantor.
5. The Guarantor further agrees that:
  - a. the Guarantor has signed this Guarantee and Indemnity voluntarily;
  - b. the Guarantor has understood the nature and effect of this Guarantee and Indemnity in particular that the Guarantor has agreed to guarantee all amounts presently owed by the Customer to the Supplier and all amounts that the Customer may in the future owe to the Supplier, and has agreed to indemnify the Supplier against all losses, damages, costs and expenses which have or may be suffered or incurred by reason of any breach or failure by the Customer.
  - c. each Guarantor has compared his/her obligations and responsibilities under the Guarantee and Indemnity with those of any other person named in the Guarantee; and
  - d. each Guarantor has considered the consequences to the Guarantor should he/she default in those obligations and responsibilities.
6. In this Guarantee and Indemnity the following rules of interpretation apply unless the context otherwise requires:
  - a. words denoting the singular number include the plural and vice versa;
  - b. words denoting natural persons include bodies corporate and unincorporate and their permitted assigns;
  - c. references to any party to this Agreement or any other agreement or instrument include the party's successors and permitted assigns; and
  - d. "Guarantor" means the Guarantee and Indemnity is rendered void, unenforceable or otherwise ineffective by operation of law that shall not affect the enforceability or effectiveness of the remaining provisions.

### Guarantor's Authorisation Under Privacy Act

**I/we agree that the Supplier may give to and seek from a credit reporting agency or other credit provider, a credit report containing persona; and/or commercial credit information about me/us, including information about the credit worthiness, credit standing, credit history or credit capacity of me/us that credit providers are allowed to give or obtain under the Privacy Act, and use this information for the purpose of assessing this application, and for assessing whether to accept me/us as a guarantor in respect of the credit for which application is made by the Applicant, notifying other credit providers of a default by me/us, or collecting overdue payments.**

**I/We agree that if the Supplier approves the Applicant's application for credit this agreement remains in force until the credit facility covered by the Applicant's application ceases.**

Dated this \_\_\_\_\_ day of \_\_\_\_\_

Signature of guarantor:

Signature of guarantor:

Full name of guarantor:

Full name of guarantor

Address of guarantor:

Address of guarantor:

Signature of Witness:

Signature of Witness:

Full name and address:

Full name and address

## TERMS & CONDITIONS OF HIRE

1. In these conditions **EAZY-LIFT PTY LTD** hereinafter referred to as the "Contractor" and includes each of its subsidiary Companies. Any sub-contractors, Servants and/or Agents of the said contractor.
  - a. The "Hirer" means and includes any person or corporation to whom or to which plant as herein defined has been hired by the Contractor.
  - b. "Plant" shall mean and include any machine or vehicle with all accessories and other equipment attached thereto or used in connection therewith hired out at any time to a hirer.
  - c. "Indemnity" whenever hereinafter it is provide that the hirer shall indemnify the contractor then the indemnity to be provided shall be a full and complete indemnity for loss of and/or damage to the plant AND from against liability in respect of the particular claim or demand referred to against costs and other expenses incurred in prosecuting the same.
2. The Contractor is not a Common Carrier and does not accept the obligations or liability of Common Carriers. The Contractor may refuse the handling, lifting and/or carriage of goods for any person or of any class of goods at its discretion and without being bound to give any reason for such refusal.
3. **Indemnity**
  - (a) The hirer is hereby required to and binds himself to hold the Contractor and the employees of the contractor indemnified against all claims which may be made against them for damages or otherwise, in respect of any loss, damage, death or injury caused by, or in the course of or arising out of the operation of the plant during all periods when, the plant is on hire to the hirer.
  - (b) The hirer is hereby required to and binds himself to indemnify the Contractor and for the loss of or damage of the plant during all periods when the plant is on hire to the hirer fair wear and tear excepted.
  - (c) The Contractor shall not be responsible for any delays or inconvenience of any kind whatsoever resulting in loss to the hirer due to any accident, breakdown or defect in the plant or any part thereof or from any cause whatsoever. PROVIDED THAT notwithstanding Conditions 3(a) and 3(b) the hirer shall not be required to provide indemnity in respect of any loss, damage liability or claim where it can be shown that the same was caused by or arose out of the negligent act of any employee of the contractor or by reason of the fact that the plant was in a defective state or condition (Proof whereof in each case shall at all time rest upon the hirer)
4. The Contractor shall have full liberty to arrange with any other person, person or corporation to undertake the contractors obligations under these conditions for such time and on such conditions as the contractor thinks fit and any such person, persons or corporation shall as against the hirer be entitled to the benefit of these conditions to the same extent as the contractor.
5. The hirer shall declare the weight and dimensions of the goods and the Contractor will rely on such declared weight and dimensions when arranging for the handling therefore the Hirer shall be responsible for extra cost and risk incurred by the Contractor, and for any and all damage sustained by reliance on the declared weight and dimensions. The Hirer shall disclose to the Contractor the nature of the goods to be handled, lifted and/or carried.
6. Insurance of the goods will not be effected by the Contractor for the benefit of the Hirer except on the express written instructions of the hirer and then only at his expense. The Contractor reserves the right at all times to decline the responsibility to arrange such insurance.
7. The Hirer acknowledges that the hourly rate charged for the hire of plant is fixed on the basis that the plant will be used on weekdays only (excluding always Saturdays and Sundays) and then only between the hours commencing at 7.30 AM and ending at 4.00 PM AND he agrees to pay in addition such charges as are fixed by the Contractor if the Hirer should during the period of the hire use, cause of permit or allow the plant to be used on any weekdays before or after the hours herein specified, or on Saturdays and Sundays.
8. The Hirer further acknowledges that in addition to the charges for hire he is required to pay:
  - (a) A charge in respect for each item of plant hired to cover the costs of delivery thereof from the depot of the Contractor to the site of the works or elsewhere as he the Hirer shall require and for the subsequent return thereof to the said depot and
  - (b) Any amount the Contractor is required to pay any employee as an allowance under any award for travelling expenses and/or time spent in travelling to and from the site or sites when the equipment is being used.
  - (c) The Hirer shall be responsible for and agrees to pay to the Contractor such charges and costs as shall be determined by the Contractor for all delays caused by the Contractor obeying any instructions given by the hirer including by any bogging or breakdown of the plant resulting from such instructions.
9. All monies payable shall be paid by the hirer to the Contractor in full within 14 days of the Contractor's invoice for such charges having been submitted to the hirer at his address shown on the face hereof.
10. The time herein before stated within which the hirer is to pay the hiring charges shall be of the essence of these conditions and any time or other indulgence granted by the Contractor shall not effect the strict rights of the Contractor under these conditions.
11. The Contractor shall be entitled to charge service charges for any time during which the crane is delayed either in travelling to or from or at the site at which the Hirer desire the crane to operate so long as such delays result from any cause beyond reasonable control of the Contractor.
12. No servant or employee has any right to alter these conditions, the only acceptable variation shall be in writing by the Contractor.
13. **Notices**

Notice to be given by the Customer to the Supplier shall be delivered personally to the Accountant of the Supplier. Notices to be given to the Customer by the Supplier may be delivered personally, or sent to the Customer's last known address and, unless the contrary is proved, shall be taken as delivered on the second business day following posting. Invoices and statements are deemed received by the Customer on the second business day after posting by ordinary prepaid post.
14. **Misuse of Account**

The Customer will ensure no unauthorized persons use the account. If the customer's business is sold the Customer will immediately close the account to prevent misuse and will remain liable for the account until written notification of change of ownership of the business has been received by the Supplier.
15. **Acknowledgement and Authorisation by Customer**
  - a. The customer acknowledges that the information provided in the application is the basis for the evaluation by the Supplier of the financial standing and credit worthiness of each of the signatories (and the incorporated body) and does hereby:
    - i. Certify that the information provided in the application is true and correct.
    - ii. Authorize the Supplier to make such enquiries and receive such information from the bankers and business referees mentioned in this application and otherwise from anyone as the Supplier may reasonably consider necessary,
    - iii. Acknowledge that the Supplier has informed me/us, in accordance with the Privacy Act 1988 as amended, that certain terms of personal information including an opinion, about me/us are permitted to be kept on a credit information file and might be disclosed to credit reporting agencies,
    - iv. In accordance with the Privacy Act 1988 as amended
    - v. Agree to the Supplier obtaining from a business which provides information about commercial credit worthiness of persons, information concerning my/our commercial activities or commercial credit worthiness and using such information for purpose of assessing this application or assessing whether to accept me/us as guarantors as the case may be,
    - vi. Authorize the Supplier to exercise my/our rights of access to credit information files and credit reports.
    - vii. Agree that these authorizations shall continue to have effect for the duration of the period during which credit or commercial credit is provided or sought by the Customer from the Supplier.
  - b. In the case of a Trustee Company, the Customer acknowledges and agrees that the Trustee shall be liable on the account and that in addition the assets of the Trust shall be available to meet payment of the account.