



ABN 37 601 451 656

### ACCOUNT APPLICATION – DEBTOR

**DETAILS:**

Company  Partnership  Sole Trader  Trading Trust  Nature of Business \_\_\_\_\_

Trading Name: \_\_\_\_\_

Company Name (in full): \_\_\_\_\_

Name of Trust: \_\_\_\_\_

ABN: \_\_\_\_\_ ACN: \_\_\_\_\_

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

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

Phone: \_\_\_\_\_ Mobile: \_\_\_\_\_ Fax: \_\_\_\_\_

Email (Accounts Payable): \_\_\_\_\_

**NAMES OF DIRECTORS/ PARTNERS/ INDIVIDUAL TRADERS:**

- 1. \_\_\_\_\_ Address \_\_\_\_\_ and
- 2. \_\_\_\_\_ Address \_\_\_\_\_ and
- 3. \_\_\_\_\_ Address \_\_\_\_\_ and
- 4. \_\_\_\_\_ Address \_\_\_\_\_ and

**BANK DETAILS:**

Name of Bank: \_\_\_\_\_ Branch: \_\_\_\_\_

Credit Limit Request: \_\_\_\_\_ (should equal 2 months trading)

**CURRENT CREDIT REFERENCES:**

- 1. Name: \_\_\_\_\_ Phone: \_\_\_\_\_
- 2. Name: \_\_\_\_\_ Phone: \_\_\_\_\_
- 3. Name: \_\_\_\_\_ Phone: \_\_\_\_\_

**APPLICATION FOR CREDIT FACILITIES:**

You have my/our authority to contact the company's bank or any of the referees in connection with this credit application, and they are hereby authorised and requested to supply any relevant information to support this application. I acknowledge that I have read the Terms and Conditions of hire supplied with this application, expect as amended and agree to the bound thereby. I also acknowledge your terms are net 30 days from date of invoice and that interest of 1.5% per month will be charged on overdue accounts.

I/We acknowledge that in making this application Cando Hire Pty Ltd has informed me/us that in accordance with the Privacy Act 1988, information contained in this application, may be for the purpose of assessing this application and that Cando Hire Pty Ltd disclose information in a report to another credit provider for reference purposes.

Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

CanDo Hire approval – Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Cando Hire will hire the Equipment to you on the terms and conditions set out in this document. You must sign a completed Hire Contract and any other documents required by Cando Hire in order to hire the Equipment. These Terms and Conditions will apply to any Hire Contract entered into between You and Cando Hire. Cando Hire may also require You to complete other documents including, but not limited to: credit application and guarantee and indemnity. This document in and of itself does not constitute an offer and Cando Hire is not obliged to agree to hire the Equipment to you.

From time to time Cando Hire may amend these Terms and Conditions. Notice of such amendment will be either sent to you at the e-mail, facsimile or physical address provided by you and displayed at any of the premises where Cando Hire operates from.

## 1. Interpretation

**Commencement** – When You take possession of the Equipment.

**Cando Hire** – Cando Hire Pty Ltd.

**Equipment** – The items hired by You from Cando Hire.

**Fee** – The amount or amounts shown in the Hire Contract that you will pay to Cando Hire to hire the Equipment.

**Hire Contract** – The documents that Cando Hire will require You to sign (or accept in another way), which will include the particulars of the Equipment, Hire Period, Fees and any other information that Cando Hire may require.

**Hire Period** – The period from Commencement until the Return Date of the Equipment, as set out in the Hire Contract. You may agree with Cando Hire to extend the Hire Period, in which event Cando Hire may require You to sign or accept a new Hire Contract. The minimum hire period is for 8 hours per 24 hour period. Weekly hire is based on 8 hours for 5 business days, however for a 7 day hire Saturday and Sunday may also be charged.

**Kilometre Charge** – The amount that you will pay to Cando Hire for the kilometres travelled by a Motor Vehicle forming part of the Equipment during the Hire Period.

**Motor Vehicle** – A truck or utility that forms part of the Equipment.

**Return Date** – The date shown of the Hire Contract when You are to return the Equipment.

## 2. What we will do

Cando Hire will:

- (a) Grant you permission to use the Equipment for the Hire Period;
- (b) Provide the Equipment in clean and good working order; and
- (c) Accept return of the Equipment on the Return Date.

## 3. What You will do

### 3.1 You must:

- (a) Return the Equipment to Cando Hire:
  - (i) on the Return Date; and
  - (ii) clean and in good repair;
- (b) be satisfied at Commencement that the Equipment is fit for the purpose for which you require it;
- (c) operate the Equipment:
  - (i) safely;
  - (ii) in accordance with the law and good practice;
  - (iii) for its intended use only; and
  - (iv) in accordance with the manufacturer's instructions;
- (d) indemnify Cando Hire for any injury or damage caused to any person or property during the Hire Period;
- (e) have adequate insurance to cover any liability or risk associated with the use of the Equipment;
- (f) ensure that any person collecting the Equipment is authorised by You to do so;
- (g) ensure that any person operating or using the Equipment is sufficiently instructed in the safe and proper use of each item of Equipment;
- (h) where necessary, ensure that any person operating or using the Equipment holds a current Certificate of Competency or licence;
- (i) comply with Occupations Health and Safety laws and conduct a thorough hazard and risk assessment prior to using the Equipment;

- (j) safely secure any items loaded in or on the Equipment and indemnify Cando Hire against any damage or injury suffered by way of items falling from the Equipment;
- (k) use the Equipment with a recommended and adequate vehicle or power source;
- (l) report the nature and details of any accident or damage to the Equipment to Cando Hire within 2 business days of such accident or damage occurring.

### 3.2 You must **not**:

- (a) Damage, tamper with or attempt to repair the Equipment;
- (b) Lose or misplace the Equipment;
- (c) On-hire or lend the Equipment;
- (d) Allow any person to drive a Motor Vehicle forming part of the Equipment where that person:
  - (i) Does not hold a full unrestricted licence to drive that class of Motor Vehicle; or
  - (ii) Is affected by drugs or alcohol;
- (e) Exceed the recommended or legal load and capacity limits of the Equipment;
- (f) Use or carry any illegal, prohibited or dangerous substance or item in or on the Equipment.

## 4. Payment

4.1 At Commencement, or as otherwise agreed in writing between You and Cando Hire, You will pay the Fee;

4.2 You will also pay to Cando Hire:

- (a) the Kilometre Charge;
  - (b) the new list price of any Equipment not returned to Cando Hire on the Return Date;
  - (c) any cost incurred in cleaning the Equipment;
  - (d) any cost of repairing any damage to the Equipment;
  - (e) any stamp duty, administration fee, damage waiver, GST or other tax or duty payable in respect of the Hire Contract
  - (f) any cost incurred by Cando Hire in delivering or recovering the Equipment;
  - (g) interest calculated daily at a rate of 20% per annum on any amount owed by You to Cando Hire;
  - (h) any cost of fuel and consumables provided by Cando Hire and not replaced or returned by You;
  - (i) any expense or legal costs incurred by Cando Hire in enforcing the Hire Contract;
  - (j) any costs of repairing or replacing tyres, including road service; and
  - (k) where any damage waiver or theft waiver applies, any amount that You are liable for as set out in the Hire Contract.
- (l) "In the event where your overdue account is referred to a collection agency and/or law firm, you will be liable for all costs which would be incurred as if the debt is collected in full, including legal demand costs".

4.3 You authorise Cando Hire to charge any amount owing under the Hire Contract to any credit card or account details that You have provided to Cando Hire.

## 5. Personal Property Security Law

5.1 Where the Hire Contract provides for a security interest as defined in the *Personal Property Securities Act 2009* ('PPSA'), or any replacement or subsequent legislation to that effect, this clause will apply.

5.2 Cando Hire may register a security interest against the Equipment.

5.3 You will provide any information, documents or signatures required by Cando Hire to:

- (a) Ensure that Cando Hire' security interest is effective under the PPSA;
- (b) Enable Cando Hire to gain first priority (or any other priority agreed to by Cando Hire in writing) for its security interest; and
- (c) Enable Cando Hire to exercise its rights with respect to the security interest.

5.4 Where Chapter 4 of the PPSA applies to any security interest under the Hire Contract the following provisions of the PPSA do not apply and are contracted out of (within the definition of section 115 of the PPSA):

- (a) Section 95;
  - (b) Section 96;
  - (c) Section 121(4);
  - (d) Section 125;
  - (e) Section 130;
  - (f) Section 129(2) and 129(3);
  - (g) Section 132(3)(d) and 132(4);
  - (h) Section 135;
  - (i) Section 142; and
  - (j) Section 143.
- 5.5 You waive the right to receive a verification statement in respect of PPSA secured property under section 157 of the PPSA.
- 5.6 You must not dispose of, create or permit to be created any security interest in the Equipment other than with the express written consent of Cando Hire.
- 6. Damage Waiver**
- 6.1 Damage waiver is not insurance. It is an agreement between You and Cando Hire that your liability for damage to the Equipment may be limited in **some circumstances**. Such limitation in those circumstances is for the amount called the Damage Waiver Excess.
- 6.2 The Damage Waiver Fee is included in the Fee.
- 6.3 The Damage Waiver Excess is:
- (a) for Motor Vehicles – the amount shown in the Hire Contract;
  - (b) for other Equipment – the lesser of:
    - (i) \$5,000.00;
    - (ii) the actual recovery and repair cost of the Equipment; or
    - (iii) 10% of the replacement cost of the Equipment.
- 6.4 The Damage Waiver Fee does not apply to (and will not limit Your liability) the following circumstances:
- (a) Lost or stolen Equipment;
  - (b) Where You have breached any term of the Hire Contract (including these Terms and Conditions);
  - (c) Where the damage is caused by:
    - (i) Your negligence or by the negligence of Your agent or employee;
    - (ii) Vandalism;
    - (iii) A collision with a bridge, car park, awning, gutter tree or any other overhead structure or object, due to insufficient clearance;
    - (iv) A truck mounted loading device;
    - (v) Overloading;
  - (d) Where the damage is:
    - (i) To glass;
    - (ii) To tyres;
    - (iii) Caused while the Equipment is being driven or towed on any road that is unsealed, not a public road or off road;
  - (e) Other than in the ordinary use of the Equipment by You.
- 6.5 You may pay an additional Motor Vehicle Cover Plus fee for the hire of a Motor Vehicle, as set out in the Hire Contract.
- 6.6 Motor Vehicle Cover Plus fee does not apply in the following circumstances:
- (a) In the event of theft, You have failed to:
    - (i) Properly secure or lock the Motor Vehicle;
    - (ii) Submit to Cando Hire a Police Report on the theft within 7 days of the theft;
  - (b) Where you have breached any term of the Hire Contract (including these Terms and Conditions);
  - (c) Where the theft is caused by the negligence of You or Your agents or employee;
  - (d) Where the damage is:
    - (i) Caused by vandalism;
    - (ii) To or caused by a truck mounted loading device;
    - (iii) To tyres;
    - (iv) To glass;
  - (v) Caused while the Motor Vehicle is being driven or towed on any road that is unsealed, not a public road or off road; or
  - (vi) Caused by overloading.
- 6.7 You may pay an additional Equipment Cover Plus fee, but only in relation to the hire of some types of Equipment as determined by Cando Hire. Such Equipment Cover Plus fee will be set out in the Hire Contract.
- 6.8 Equipment Cover Plus does not apply and will not limit Your liability for theft in the following circumstances:
- (a) You have failed to keep the Equipment in a securely locked compound;
  - (b) You have failed to submit a Police Report to Cando Hire within 7 days of the theft; or
  - (c) Where the theft is caused by Your negligence or the negligence of your agent or employee.
- 6.9 Where Cando Hire determines, in its discretion, that one or more of the exclusions set out above apply to Damage Waiver, Motor Vehicle Cover Plus or Equipment Cover Plus the cover will not apply unless You establish to the satisfaction of Cando Hire that that exclusions or those exclusions do not apply.
- 7. Damages**
- 7.1 You cannot recover damages or compensation from Cando Hire for any damages arising from the Hire Contract or the use of the Equipment.
- 7.2 This clause does not apply to the extent of any rights that You may have under the *Australian Consumer Law* or any other law to the extent that Cando Hire is unable to contract out of, excluded or modified by the Hire Contract (including these Terms and Conditions).
- 8. Breach of Hire Contract**
- 8.1 If You breach any clause of the Hire Contract (including these Terms and Conditions), or if you become bankrupt, insolvent or cease to trade – then:
- (a) Cando Hire may:
    - (i) Terminate this contract;
    - (ii) Repossess the Equipment, and enter any premises where the Equipment is located in order to do so; and
  - (b) Any Damage Waiver, Motor Vehicle Cover Plus or Equipment Cover Plus is invalidated from the date of any such breach.
- 8.2 You indemnify Cando Hire in respect of any breach of the Hire Contract by You, Your agent or employee.
- 9. Warranties**
- 9.1 To the full extent permitted by law, Cando Hire makes no warranties as to the suitability, fitness for purpose or quality of any of the Equipment, other than as provided for in this agreement.
- 9.2 Cando Hire' only obligation resulting from any breach by it of this agreement is for the resupply or repair of the Equipment subject to the Hire Contract.
- 9.3 This clause does not apply to the extent of any rights that You may have under the *Australian Consumer Law* or any other law to the extent that Cando Hire is unable to contract out of, excluded or modified by the Hire Contract (including these Terms and Conditions).
- 10. Disputes**
- 10.1 You must immediately check the Fee. Any dispute regarding the Fee must be made in writing within 30 days of Commencement.
- 10.2 Where a dispute arises from the Hire Contract or the hire or use of the Equipment (with the exception of amounts owed by You to Cando Hire), You and Cando Hire agree to attempt to settle the dispute with the assistance of the Hire and Rental Association of Australia prior to either party commencing any litigation.
- 11. Governing Law**
- 11.1 The Hire Contract is governed by the Law of Victoria and both You and Cando Hire submit to the jurisdiction of the Courts in Victoria. The Hire Contract is a payment claim under the "Building and Construction Industry Security of Payment Act 2002 (Victoria)

Signature: \_\_\_\_\_