



Commercial Credit Application Form

BUSINESS CONTACT INFORMATION

APPLICANTS NAME (company name)			
TRADING NAME IN FULL		ABN	
POSTAL (BUSINESS) ADDRESS			
A/C PAYABLE CONTACT		EMAIL ADDRESS	
PHONE		DATE BUSINESS WAS ESTABLISHED	
TYPE OF BUSINESS			

BUSINESS AND CREDIT INFORMATION

LIST EQUIPMENT/TRUCKS OWNED				
TYPE OF BUSINESS STRUCTURE	SOLE TRADER <input type="checkbox"/>	PARTNERSHIP <input type="checkbox"/>	COMPANY <input type="checkbox"/>	TRUST <input type="checkbox"/>
LIST OWNERS/DIRECTOR DETAILS				
1 FULL NAME		D.O.B		PHONE
ADDRESS				
2 FULL NAME		D.O.B		PHONE
ADDRESS				
3 FULL NAME		D.O.B		PHONE
ADDRESS				

BUSINESS/TRADE REFERENCES (DO NOT INCLUDE FREIGHT OR FUEL COMPANIES)

COMPANY NAME		PHONE	
EMAIL			
COMPANY NAME		PHONE	
EMAIL			
COMPANY NAME		PHONE	
EMAIL			
CREDIT LIMIT REQUESTED		ARE PURCHASE ORDERS REQUIRED FOR PAYMENT?	YES <input type="checkbox"/> NO <input type="checkbox"/>

TERMS

1	I / We understand & acknowledge by signing this application that CJD Equipment Pty Ltd trading terms are thirty (30) days from the end of the month in which the invoice is issued and I / we undertake to pay all accounts on the due date
2	If the account balance becomes overdue, the account will automatically be suspended until it is brought within the trading terms.
3	I / We acknowledge upon acceptance of this application CJD Equipment Pty Ltd will notify the applicant in writing of the applicants account credit limit. If the account credit limit is or may be exceeded the account must be paid in full.
4	I / We hereby certify that the above information is true & correct at the date of this application.
5	I / We hereby agree to advise CJD Equipment Pty Ltd immediately upon any changes to the information contained in this application and of any changes to the business structure making this application. I / We further agree that any change to any of the above particulars is subject to written approval by the Credit Manager of CJD Equipment Pty Ltd.
6	Should this application be accepted by CJD Equipment Pty Ltd the applicant hereby agrees that the credit account shall be subject to the terms of this application and the usual terms and conditions of trade of CJD Equipment Pty Ltd, a copy of which is attached to this application and which the applicant has read, understands and agrees to abide by such terms and conditions of trade.
7	I / We hereby authorise CJD Equipment Pty Ltd to contact those trade references listed as part of this application.

AGREEMENT

DATED THIS		DAY OF		IN THE YEAR OF	
PRINT NAME OF AUTHORISED OFFICER OF APPLICANT					
SIGNATURE OF AUTHORISED OFFICER		POSITION			
PRINT NAME OF AUTHORISED OFFICER OF APPLICANT					
SIGNATURE OF AUTHORISED OFFICER		POSITION			
NAME OF WITNESS		SIGNATURE OF WITNESS			

PRIVACY ACT DECLARATION

(Completion of this section is mandatory)

CJD Equipment Pty Ltd hereby advises that, pursuant to the Privacy Act 1988, information disclosed in this credit application may be disclosed to a credit reporting agency. Under the regulations of the Privacy Act 1988 the applicant hereby agrees to CJD Equipment Pty Ltd obtaining personal information from a credit reporting agency or a credit provider for the purpose of assessing this application for commercial credit, and agrees to that agency or provider providing that information to CJD Equipment Pty Ltd for that purpose. The applicant agrees to CJD Equipment Pty Ltd disclosing a credit report about the applicant to any credit provider, debt collection agency or other party for the purpose of assessing the applicant's credit worthiness or to collect any overdue payments.

DATED THIS		DAY OF		IN THE YEAR OF	
PRINT NAME OF AUTHORISED OFFICER OF APPLICANT					
SIGNATURE OF AUTHORISED OFFICER			POSITION		
NAME OF WITNESS			SIGNATURE OF WITNESS		

DATED THIS		DAY OF		IN THE YEAR OF	
PRINT NAME OF AUTHORISED OFFICER OF APPLICANT					
SIGNATURE OF AUTHORISED OFFICER			POSITION		
NAME OF WITNESS			SIGNATURE OF WITNESS		

DEED OF GUARANTEE

I / We the undersigned in consideration of CJD Equipment Pty Ltd agreeing to supply goods & services to the applicant on credit, hereby jointly & severally agree:

1. To guarantee unconditionally to CJD Equipment Pty Ltd the due and punctual payment by the applicant of all monies now or hereafter owing to CJD Equipment Pty Ltd relating to the supply by CJD Equipment Pty Ltd of goods and/or services to the applicant; and the due observance & performance by the applicant of all its obligations under the terms & conditions of credit granted by CJD Equipment Pty Ltd.
2. That CJD Equipment Pty Ltd may act against me/us or any of us as principal debtor(s) & I / we hereby waive all & any of my / our rights as surety's which may at any time be inconsistent with this provision.
3. That this Guarantee shall be a continuing guarantee & shall not be revoked by the death of me/any of us or be impaired by any change in the members or shareholders of the applicant.

DATED THIS		DAY OF		IN THE YEAR OF	
PRINT NAME OF DIRECTOR					
SIGNATURE OF DIRECTOR			POSITION		
NAME OF WITNESS			SIGNATURE OF WITNESS		

DATED THIS		DAY OF		IN THE YEAR OF	
PRINT NAME OF DIRECTOR					
SIGNATURE OF DIRECTOR			POSITION		
NAME OF WITNESS			SIGNATURE OF WITNESS		

FULL TERMS AND CONDITIONS APPLYING TO THE SALE OF GOODS

March 2021

1. **DEFINITIONS** - In these Terms and Conditions:

"Goods" means all goods, chattels, plant, equipment, machinery, stores, parts or components sold by the Seller;

"Manufacturer" means the maker or makers of Goods (or any part or component of the Goods) sold by the Seller;

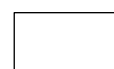
"Purchaser" means the person, firm or corporation to whom the Goods are sold. Also referred to as the applicant.

"Seller" means CJD Equipment Pty Ltd (ABN 63 008 754 523)

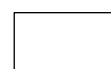
"Debt" means all monies owing to the Seller from the Purchaser, including any amounts due in accordance with Clause 14.
2. **CONDITIONS TO APPLY**
 - 2.1 Unless otherwise agreed in writing, Goods are supplied by the Seller only on these terms and conditions which shall become part of the contract ("Contract") between Seller and Purchaser with respect to the Goods and which shall apply to the exclusion of any terms or conditions contained in any written order or confirmation by the Purchaser. The giving by the Purchaser of any delivery instructions for the Goods or any part thereof or the acceptance by the Purchaser of delivery of the Goods or any part thereof or any conduct by the Purchaser in confirmation of the transaction after receipt by the Purchaser of the Seller's acceptance shall constitute unqualified acceptance by the Purchaser of these conditions.
 - 2.2 All descriptive matter and specifications, drawings and particulars of weights and dimensions submitted with or prior to any quotation of the Seller or contained in the Seller's catalogue, price lists or advertising matter are intended merely to present a general idea of the Goods described therein, and none of these shall form part of the Contract.
3. **DELIVERY**
 - 3.1 All reasonable efforts will be made by the Seller to complete and deliver the Goods within seven (7) days of notifying the Purchaser that the Goods are ready for delivery but time shall not be of the essence and no penalty or damages will be incurred by the Seller for late delivery or failure to deliver the Goods or any part thereof due to:-
 - (a) acts of God, strikes, lockouts, trade disputes, fire, breakdowns, interruption of transport, government action or any other cause whatsoever outside the Seller's control; or
 - (b) any acts, omissions, neglect or default of the Seller, its servants or agents; or
 - (c) any breach by the Seller, its servants or agents of any term of the contract.
 - 3.2 The Purchaser shall accept delivery in accordance with any quotation and if the Purchaser fails to do so within fourteen (14) days after being requested to accept delivery by the Seller, the Goods shall be deemed to have been delivered upon the expiration of that period and shall be thereafter at the risk of the Purchaser, who shall pay the Seller upon demand for costs incurred thereafter by the Seller in relation to the Goods provided that the Seller is under no obligation to store or insure or care for the Goods after that expiration.
4. **SPECIFICATIONS**
 - 4.1 The Purchaser may provide specifications to the Seller with the written order for the Goods.
 - 4.2 If before the manufacture of the Goods the Manufacturer modifies its specification the modified specification shall be substituted for any specification in the quotation and:-
 - (a) the Purchaser shall accept the Goods as manufactured in accordance with the modified specification of the Seller's obligations under the Contract.
 - (b) the Purchaser shall pay any increase in the Manufacturer's prices resulting from such modifications.
5. **TITLE**
 - 5.1 Title to the property in the Goods shall not pass to the Purchaser until the Purchaser has paid to the Seller, by way of cleared funds, the Debt.
 - 5.2 Until payment, by way of cleared funds, of the Debt, the Purchaser is to insure the Goods and store them with proper care. The Purchaser hereby indemnifies the Seller against any loss or damage to the Goods howsoever arising.
 - 5.3 The Purchaser may sell the Goods in its own name and not as agent for the Seller by way of bona fide sale and full market value and in the ordinary course of the Purchaser's business. Any sale of the Goods by the Purchaser in accordance with this clause shall be affected as bailee for the Seller and the proceeds of such sale will be held in a separate account (or otherwise clearly identified in the books and records of the Purchaser). Any rights against the Purchaser's customers arising as a consequence of the sale of Goods and the proceeds of such a sale will be held on account for the Seller.
 - 5.4 The Purchaser must, on request, disclose to the Seller all relevant information regarding the Goods and any sub-sale by the Purchaser.
- 5.5 The Purchaser must inform the Seller immediately of any levy of execution or attempt to levy execution by any third party against the Goods, the title to which is reserved to the Seller hereunder.
- 5.6 In the event that:
 - (a) the Seller receives notice of or reasonably believes that a third person may attempt to levy execution against the Goods; or
 - (b) the Purchaser becomes unable to pay its Debts as and when they fall due;
 then the Seller may at any time without notice to the Purchaser terminate any provision of these terms and the bailment referred to in sub-clause 5.3, and enter upon any premises owned or occupied by the Purchaser where the Seller reasonably believes the Goods may be stored, repossess the Goods without being liable for any damage caused, and subsequently dispose of the Goods at the Seller's discretion.
- 5.7 If the Purchaser incorporates or mixes the Goods with any other items to create new products (the Products) such that the Goods are not a readily identifiable and removable part of the Products, then until the Debt has been paid:
 - (a) the Purchaser shall store the Products separately so as to be readily identifiable.
 - (b) the Seller shall have title to the Products; and
 - (c) this Clause 5 shall apply as if references to "Goods" were references to "Products".
 In the event that the Goods are sold by the Seller following repossession under this Clause 5, any excess of the proceeds of the sale (less expenses of repossession and sale over the costs of the Goods as supplied to the Purchaser) shall be paid to the Purchaser, after all the Debt has been paid.
6. **RISK** - The risk of any loss or damage to or deterioration in the Goods from whatever cause arising shall pass to the Purchaser and be borne by him immediately upon delivery into the hands of the Purchaser, his agent or employee or deemed delivery pursuant to Clause 3.
7. **LIEN** - The Seller reserves the right to retain the Goods until payment, by way of cleared funds, has been received in full.
8. **NO REPRESENTATIONS** - Except for any conditions or warranties issued in writing by the Seller, the Purchaser agrees that it has not relied on any inducement, representations or statements made by or on behalf of the Seller in acquiring the Goods.
9. **WARRANTY**
 - 9.1 New parts purchased from the Seller or its authorised dealer or agent are warranted to be free from defects in material or workmanship for a period of twelve (12) months from the date of invoice to the Purchaser.
 - 9.2 The twelve (12) month warranty term applies to the part initially purchased. Any replacement or repaired part supplied under this warranty will be warranted only to the end of the initial warranted twelve (12) month period.
 - 9.3 In the event of a defect arising during this warranty period, the Seller or its authorised dealer or agent will, upon inspection and to the satisfaction of Seller and the Manufacturer that the failure is the result of a defect in material or workmanship, replace or repair any part which is required to put right the defect.
 - 9.4 Claims made under this warranty shall be accepted only if the part is within the twelve (12) months warranty period and meets the following conditions:
 - (a) The part has been installed, used and maintained in accordance with the Manufacturer's and the Seller's recommendations and specifications.
 - (b) The failure is not caused by the fitting of non-genuine or non-authorised parts.
 - (c) The machine or the failed part is returned to the Seller's authorised workshop or dealer.
 - (d) The original purchase invoice is supplied at the time of any claim.
10. **LIMITATION OF LIABILITY** -
 - 10.1 In the case of Goods or services which are supplied by the Seller to a consumer within the meaning of the Competition and Consumer Act 2010, our Goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled to:
 - (a) to cancel your service contract with us; and
 - (b) to a refund for the unused portion, or to compensation for its reduced value.
 You are also entitled to choose a refund or replacement for major failures with Goods. If a failure with the Goods or a service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the Goods and to cancel the contract for the service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the Goods or service.



- 10.2 To the extent that the Goods or services are not of a kind ordinarily acquired for personal, domestic or household use or consumption, the liability of the Seller shall be limited, at the option of the Seller to:
- the replacement of the Goods or the supply of equivalent Goods; or
 - the cost of repair or replacement of the goods; or
 - the re-supply of services or the cost of re-supplying them again,
- and without limiting the generality of the foregoing, shall not include any other liability in respect of, arising out of or in connection with any special, consequential, direct or indirect loss, damage, harm or injury suffered or incurred as a result of such breach.
- 10.3 In the case of Goods which are supplied by the Seller to a person or corporation who or which is NOT a consumer within the meaning of the Competition and Consumer Act 2010, any claim for defective Goods must be made in writing to the Seller within seventy-two (72) hours after delivery. The Goods in respect of which any such claim is made shall be preserved intact as delivered for a period of fourteen (14) days after such notice is given within which time the Seller shall have the right to attend and inspect the same. Any breach of this condition shall disentitle the Purchaser to any consideration of such claims. The Seller shall not be liable to make good any expenditures, damages and/or loss arising out of any user or dealing with the Goods howsoever such expenditure, damages or loss shall arise and whether from any defect in the Goods or otherwise the Seller's liability being strictly limited to further repair of the Goods being returned to the Seller.
11. **PASSING OF RISK** - Goods delivered to the Seller remain at the Purchaser's risk and, subject to clause 9, the Seller shall not be liable for any loss or damage to the Goods in the Seller's possession whether caused by the negligence of any of the Seller's servants, agents or employees or any other cause whatsoever.
12. **GOODS NOT IN ACCORDANCE** - Subject only to the application of any conditions and warranties implied by the Competition and Consumer Act 2010 and which cannot be modified or excluded, the Purchaser shall within fourteen (14) days of delivery or deemed delivery of the Goods give notice in writing to the Seller of any matter or thing by reason whereof the Purchaser alleges that the Goods are not in accordance with the Contract, failing which the Goods shall be deemed to be in all respects in accordance with the Contract and the Purchaser shall be bound to accept and pay for the Goods accordingly.
13. **RETURNS**
- No part is returnable without authorisation.
 - An invoice number must accompany an authorised parts return.
 - Freight must be prepaid on returns.
 - Goods approved and returned for credit within 14 days will receive full credit.
 - After 14 days from delivery a handling fee of up to 20% will be charged.
 - Special Purchases are not returnable.
 - All Goods returned must be in **as new** condition.
14. **PRICE**
- 14.1 Unless otherwise stated in writing, all quoted prices are for delivery at the place specified in the quotation (if any) and are payable without discount or allowance.
- 14.2 The Purchaser shall pay to the Seller in addition to the quoted or list price:-
- all packaging costs;
 - all taxes, duties and charges whatsoever imposed by any government or other authority and payable in respect or by reason of the sale or delivery of the goods or any part thereof whether or not the same were payable at the date of the quotation or order and including (without prejudice to the generality of the foregoing) charges for import, export or currency licenses, sales, consumption, turnover or purchase taxes and duties of customs and excise;
 - the amount of any increase in the cost of the Seller of supplying or delivering the Goods or any part thereof occurring after the date of quotation or order for any reason whatsoever including (without prejudice to the generality of the foregoing) changes in Manufacturer's prices, rates of exchange, landing charges and port dues and the cost of carriage, insurance and handling;
 - any increase in the cost to the Seller arising from delivery of the Goods to a place at a time or in a manner other than that specified in the quotation or order resulting from any request made by the Purchaser or any other reason whatsoever beyond the control of the Seller;
 - any excess over the amount allowed by the Seller in quoting the price actually incurred by the Seller in respect of freight and insurance or port dues or handling charges at any port to which the Goods are to be shipped which is not regularly served without trans-shipment by a line of steamers; and
 - any excess over the amount allowed by the Seller in quoting the price for supplying or delivering the Goods where such excess results from any error or omission on the part of the Seller, its servants or agents affecting the price or its calculation.
- 14.3 Subject to the Purchaser holding a credit account with the Seller, the purchase price shall be paid by the Purchaser to the Seller in full within thirty (30) days of the end of the month in which the invoice is issued and the Purchaser shall not be entitled to withhold payment or make any deduction from the price in respect of any set-off or counter-claim. The Purchaser agrees that the Seller will apply any payments made by the Purchaser as the Seller sees fit. Notwithstanding any prior application, payment amounts will be applied at the Seller's discretion.
- In all other instances, the purchase price shall be paid by the Purchaser to the Seller in full prior to delivery.
- 14.4 If the Purchaser fails to pay the purchase price or any other expenses required under Clause 14.3 as aforesaid, the Seller shall be entitled (without prejudice to any other right hereunder):
- to charge interest thereon from the date when due until payment at the rate of two per centum (2%) above the maximum overdraft rate of the Seller's bankers for the time being in force; and
 - to give the Purchaser written notice that the Seller intends to retake possession of the Goods and to resell the Goods within a stated period being not less than seven (7) days. If the Purchaser fails within that period to pay the purchase price (and interest thereon) the Seller shall be entitled to retake possession of the Goods (and for that purpose the Purchaser irrevocably licenses the Seller to enter upon any premises where the Goods may be situated for the purposes of removing the Goods and the Purchaser indemnifies the Seller against any action claim or demand arising out of any act lawfully done by the Seller in the exercise of its powers hereunder) and to resell the Goods and shall be released from all obligations under the Contract and the Purchaser shall pay to the Seller –
 - charges for and incidental to the storage and handling of the Goods until their delivery under the resale;
 - interest on the purchase price of the Goods from the date when due until payment upon their resale at the rate of two per centum (2%) above the maximum overdraft rate of the Seller's bankers for the time being in force;
 - the amount, if any, by which the purchase price on resale is less than the purchase price hereunder;
 - the balance of any expenses incurred by the Seller in making delivery under resale of the Goods over and above normal delivery expenses incurred by the Seller on such delivery; and
 - the Seller's gross profit on the sale to the Purchaser who acknowledges that the resale has deprived the Seller of a probable customer for other like goods.
15. **EXCLUSION OF CONSEQUENTIAL LIABILITY**
- Subject only to terms implied by the Competition and Consumer Act 2010 or rights of action created thereunder which cannot be excluded or modified, the Seller shall not be responsible or liable for damage, injury or loss of any kind whatsoever, to any property or persons howsoever caused arising from the Goods whether such loss arises directly or indirectly.
 - The Purchaser shall indemnify and hold harmless the Seller for any loss or damage caused by the Seller, its agents, sub-contractors, or employees in removing the Goods in accordance with Clause 14.4 unless such loss or damage was caused by the negligence of the Seller, its agents, sub-contractors or employees.
16. **INTELLECTUAL PROPERTY**
- If the Purchaser provides to the Company specifications, designs, plans, descriptions, prototypes, samples, tooling or components for or in relation to the Goods or their manufacture or delivery, the Purchaser shall indemnify the Seller against any claims, actions, demands, costs, damages or expenses arising from or incurred by reason of any infringement or alleged infringement of any registered or unregistered patent, design or trade mark or name, or any copyright, rights in respect of confidential information or other protected or proprietary rights arising from the supply or use of such specifications, designs, plans, description, prototype, samples, tooling or components. The Seller shall not be required to defend any action, claim or demand or to contest any costs or expenses covered by this indemnity before it shall be entitled to the benefit of this indemnity.
 - The copyright, patent rights, design rights and all other intellectual property rights in respect to or contained within the Goods or in any drawing, plan, prototype or specification in relation to the Goods or their manufacture which have been developed by or on behalf of the Seller shall remain the property of the Seller and no transfer to the Purchaser of any such rights is included in the price paid or agreed to be paid whether or not such price includes an amount for designing or producing the Goods. All such items and all documents, information, systems and know-how provided to or disclosed to the Purchaser by the Seller and marked or described as "Confidential" or "Commercial in Confidence" shall be treated as confidential by the Purchaser and the Purchaser shall not loan, copy, use, dispose of or sell such items, documents, information, systems or know-how without the prior written consent of the Seller.



17. **LICENSES** - If it is necessary for the lawful fulfilment of the Contract:
- for the Purchaser to hold or obtain any import, export, currency or other license, consent or authority ("license"), the Purchaser shall be obliged to obtain the license; or
 - for the Seller to hold or obtain any such license, the Seller shall apply for it but if it is refused, this Contract shall forthwith come to an end and neither the Seller nor the Purchaser shall be under any liability in respect thereof.
18. **APPLICABLE LAWS** - The Contract is made in the State of Australia where the relevant order was accepted and the parties agree to submit all disputes arising between them to the courts of such state at any court competent to hear appeals therefrom.
19. **TERMINATION - IF:**
- the Purchaser makes default or commits a breach of contract; or
 - any distress or execution is levied upon the Purchaser's property or assets; or
 - the Purchaser makes or offers to make any arrangement or composition with creditors or commits any act of bankruptcy, or if any petition or order in bankruptcy is presented or made against him; or
 - where the Purchaser is a limited company and any resolution or petition to wind up the company's business (other than for the purpose of reconstruction) is passed or Presented; or
 - a receiver or any provisional liquidator or official manager of such company's undertaking, property or assets or any part thereof is appointed,
- the Seller shall have the right forthwith to terminate the Contract by written notice posted to the Purchaser's last known address without prejudice to any claim or right the Seller may otherwise have, make or exercise against the Purchaser or otherwise in respect of the Contract.
20. **NO WAIVER** - No failure to exercise and no delay in exercising any right, power or remedy under these terms will operate as a waiver. Nor will any single or partial exercise of any other right, power or remedy preclude any other or further exercise of that or any other right, power or remedy.
21. **SEVERABILITY** - Any provision of any of these terms which is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That does not invalidate the remaining provisions of these terms nor effect the validity or enforceability of that provision in any other jurisdiction.
22. **COSTS AND EXPENSES** - Any legal costs, stamp duties or any other expenses whatsoever incurred by the Seller in respect of the application, agreements, guarantees, securities or other documentation required by the Seller or other costs reasonably incurred by the Seller in consequence of this application and any other expenses incurred in respect of opening and maintaining any account in the name of the applicant together with any debt collection costs, dishonoured cheque(s) fees, legal costs, whether charged on scale or on any other basis incurred, shall be paid by the applicant on demand.
23. **Personal Property Securities Act 2009 (Cth) ("PPSA")**
- The Purchaser acknowledges that this Contract creates a Security Interest in the Goods and is granted by the Purchaser to secure the payment of all amounts owing including but not limited to the Debt by the Purchaser under the terms of this Contract and the performance of all other obligations under this Contract.
 - The Purchaser agrees that the Security Interest created by this Contract attaches or otherwise takes effect immediately upon the Purchaser obtaining possession of the Goods. The Security Interest created by this Contract extends not only to the Goods but also to all and any proceeds arising from any dealings with the Goods.
 - The Purchaser agrees to do all things (including executing and delivering all documents) which the Seller requires at any time to:
 - ensure that this Contract creates a first-ranking perfected security interest for the purposes of the PPSA;
 - ensure that this Contract is perfected by control to the extent possible under the PPSA; and
 - otherwise protect, preserve and give full effect to the Sellers powers under, and for all purposes of, the PPSA.
 - The Purchaser must not give another person an interest in, or any form of Security Interest over, any lease Contract or hiring Contract or the Goods, or authorise anyone else to do so, without the Seller's consent.
 - The Purchaser must indemnify the Seller against any costs (reasonably incurred) in connection with any action required to be taken by the Seller under or in relation to the PPSA, including any registration, or any response to an amendment notice or demand under sections 178-182 of the PPSA or any demand or request under section 275 of the PPSA.
 - Without affecting the Purchaser's obligations under this Contract, if, in the opinion of the Seller a PPS Law applies, or will in the future apply to this Contract or any of the transactions provided for or contemplated by it and that PPS Law:
 - adversely affects or would adversely affect the Seller's security position or the Seller's rights or obligations under or in connection with this Contract ("Adverse Affection"); or
 - enables or would enable the Seller's security position to be improved without adversely affecting the Purchaser in a material respect ("Improvement"),
 the Seller may by notice to the Purchaser require the Purchaser to reasonably do anything (including assist with amending this Contract or executing any new document) that in the Seller's opinion is necessary or desirable to ensure that, to the maximum possible extent, the Seller's security position, and the Seller's rights and obligations, are not subject to an Adverse Affection or are improved by an Improvement. The Purchaser must, acting reasonably, comply with the requirements of that notice within the time stipulated in the notice.
- The Purchaser agrees that the Purchaser will only authorise the disclosure of information under section 275(7)(c) or request information under section 275(7)(d), if the Seller approves. Nothing in this provision will prevent any disclosure by the Seller that it believes is necessary to comply with its other obligations under the PPSA.
 - The Purchaser acknowledges that the Seller may register one or more financing statements in relation to its Security Interests under this Contract and that each such financing statement may be registered at any time.
 - To the extent permitted by law, if the PPSA applies, the Purchaser irrevocably waives any rights it may have to:
 - Receive notices or statements under sections 95, 121(4), 125, 130, 132(3)(d), 132(4) and 135 of the PPSA;
 - Redeem the goods under section 142 of the PPSA;
 - Reinstate the Contract under section 143 of the PPSA;
 - Receive a verification statement as defined in the PPSA.
 - In this Contract, the terms used in this clause which are defined in the PPSA have the meanings given to those terms in the PPSA



FULL TERMS AND CONDITIONS APPLYING TO THE REPAIR OF GOODS

June 2019

1. APPLICATION

These Terms and conditions shall apply to all goods submitted to the Repairer for repair and shall prevail over any conflicting conditions presented by the Owner. Unless expressly acknowledged by the Repairer in writing, any variation to these Conditions is not accepted and will be treated as inapplicable.

2. DEFINITIONS

In these Terms and Conditions:

"Goods" means any goods of the Owner which the Repairer has agreed to repair;

"Manufacturer" means the maker or makers for whom the repairs are undertaken;

"Repairer" means CJD Equipment Pty Ltd (ABN 63 008 754 523)

"Contract" means the contract for repair of goods constituted by acceptance of the Owner's order by the Repairer.

"Owner" means the person presenting the goods for repair.

3. QUOTATIONS - A quotation is open for acceptance by the Owner in writing within thirty (30) days after the date of the quotation or within such further time as the Repairer may agree in writing. If not accepted, it will be deemed to have been withdrawn. If accepted subject to variation, the price and delivery dates originally quoted will not necessarily remain effective. The Contract constituted by such acceptance shall be upon and subject to these terms and conditions and no others notwithstanding that the said acceptance may purport to be upon different or additional terms.

4. ESTIMATED REPAIR TIME - Any date quoted for completion for the repair is estimated and the Repairer will not be liable for any loss or damage caused by delay in providing the service. Where the Repairer is unable to repair the Goods because of accidents to machinery, differences with workmen, strikes, lockouts, breakdowns, labour shortages, fires, floods, priorities required or requested by any government or agencies thereof, delays in transportation, lack of transportation facilities or restrictions imposed by any laws or any cause beyond the control of the Repairer, then the estimated date of completion of the repair shall be extended until the cessation of the effect of such matter or matters.

5. INDEMNITY - Subject only to terms implied by the Competition and Consumer Act 2010 or rights of action created thereunder which cannot be excluded or modified, the Owner shall indemnify and save the Repairer from the following:

- (a) all claims, demands, penalties, suits, costs, charges, losses, judgements and expenses to which the Repairer may become wholly or partially liable through any work required to be done by the Repairer or Goods or materials to be supplied by the Repairer in accordance with the Owner's specifications, orders or otherwise and involving an infringement or alleged infringement of any patent, registered design, copyright or trade mark;
- (b) all claims for loss, damage, death or injury sustained by the Repairer, its employees or any person whomsoever by reason of any defect in design, material, manufacture or workmanship of the Goods, whether the same be caused by the sole negligence of the Repairer or otherwise;
- (c) all claims for loss, damage, death or injury arising from the existence of defects in machinery or equipment used by the Repairer, its employees, servant and agents (in accordance with Clause 14) as are not notified to the Repairer or from the operation of any equipment, machine or any part thereof or from any combination of both causes.

6. CANCELLATION OF ORDERS - Orders cannot be countermanded, terminated or cancelled under any circumstances except with the written consent of the Repairer and upon terms that will indemnify the Repairer against all loss and damages.

7. COST OF REPAIRS - The cost of repairs and services shall be the list price on completion of the repairs or as quoted on the Repairer's quotation.

8. CANCELLATION

The Repairer may cancel the Contract or suspend or continue delivery hereunder at the Repairer's discretion and the Repairer reserves all rights to recover any loss or damages consequent upon any such cancellation or suspension due to any of the following:

- (a) in case of death, incapacity, bankruptcy or liquidation of the Owner;
- (b) suspension of payment;
- (c) the making of any agreement with creditors on the part of the Owner;
- (d) any non-payment punctually for any delivery tended;
- (e) any failure by the Owner to make any payment, by way of cleared funds, or to meet any obligation under this or any other contract or obligation to the Repairer;

- (f) if the Owner rejects any delivery; or
- (g) if a Receiver is appointed in respect of the Owner's business or assets.

9. PRICES - Prices quoted are for delivery of the Goods at the place specified on the quotation and are payable, by way of cleared funds, without discount or allowance. Prices quoted do not include any of the following items which (if incurred by the Repairer) must be paid, by way of cleared funds, by the Owner to the Repairer in addition to and at the same time as the prices quoted:

- (a) freight, insurance and all other charges whatsoever borne by the Repairer by reason of or arising out of the Repairer's compliance with any request by the Owner for or which for any reason beyond the control of the Repairer results in delivery elsewhere than the place specified;
- (b) packing costs;
- (c) the amount of all increases in costs to the Repairer by reason of any change after the date of quotation in:
 - (i) Manufacturers' prices;
 - (ii) labour cost;
 - (iii) equipment or material costs;
 - (iv) rates of exchange; or
 - (v) charges for carriage or insurance including costs of handling, landing charges and port dues;
- (d) all taxes whether or not in force at the date of the quotation or order in respect of the sale or delivery of the Goods including:
 - (i) charges for import, export or currency licenses;
 - (ii) consumer, sales, turnover or purchase taxes;
 - (iii) duties of customs or excise and for any other charge or impost whatsoever by any government or governmental authority; or
- (e) any expenses incurred as a result of any delay in delivery resulting from the need of the Owner to obtain a license pursuant to clause 11 hereof.

Subject to the Owner holding a credit account with the Repairer, the price shall be paid by the Owner to the Repairer in full within thirty (30) days of the end of the month in which the invoice is issued and the Owner shall not be entitled to withhold payment or make any deduction from the price in respect of any set off or counter claim.

In all other instances, the price shall be paid by the Owner to the Repairer in full prior to delivery.

10. CHANGES IN SPECIFICATION - If before the Repairer commences to perform its part of the Contract, the Manufacturer modifies the specification for any goods to be used in the repair of the Goods which are then manufactured in accordance with the new specification, then that specification shall be substituted for the specification of the goods that has been used in the quotation and neither the Manufacturer nor the Repairer shall be under any obligation to the Owner by reason of such change of specification. If any such change of specification shall result in an increase in the Manufacturer's prices, such increases shall be borne by the Owner in accordance with the provisions of Clause 9 hereof.

11. LICENSE AND PERMISSIONS - If for the lawful fulfilment of any contract, it shall be necessary for the Owner to hold or obtain any import, currency, or any other license ("License"), it shall be a condition of the contract that the Owner shall obtain the license. If it shall be necessary for the Repairer to hold or obtain a license, the Repairer shall apply for it but if it is refused, then the Contract shall be deemed discharged and neither the Owner nor the Repairer shall be under any liability in respect thereof.

12. UNCOLLECTED GOODS - Subject to any legislation governing the sale of uncollected goods which might be applicable, the Repairer will notify the Owner when the repairs will be completed and the Owner will collect the repaired Goods from the Repairer within forty eight (48) hours of being advised that the Goods are ready for delivery. Delivery is deemed to take place on collection of the said Goods by the Owner and the Owner shall pay, by way of cleared funds, for the Goods before taking delivery. Storage charges will be made on Goods which are not collected within seven (7) days of notification to the Owner of completion of repairs. The Repairer reserves the right to recover outstanding monies should the repaired Goods not be collected by the Owner within three (3) months of repair completion.

13. RIGHT TO SUB-CONTRACT - Subject only to terms implied by the Competition and Consumer Act 2010 or rights of action created thereunder which cannot be excluded or modified, the Repairer may sub-contract any work to any person, firm or Repairer without notifying the Owner thereof and shall not thereby become liable for any delay, damage, loss, failure or any other matter, cause or thing whatsoever which shall

occur or arise as a result of such sub-contracting either before or at any time after delivery.

14. **NO OTHER DEFECTS** - The Owner hereby grants to the Repairer and its employees, servants and agents authority and permission to operate any equipment, machine or any part thereof in any manner whatsoever for the purposes of repairing the Goods and certifies that there are no defects whatsoever in such equipment, machines or any part thereof other than of those notified to the Repairer at the time of placing the order of repair.
15. **NO REPRESENTATION** - In case of services which are supplied by the Repairer to a consumer within the meaning of the Competition and Consumer Act, 2010, the Owner agrees that it has not relied on any inducement, representation or statement made by or on behalf of the Repairer in requiring the services, except for any conditions or warranties issued in writing by the Repairer.

16. **WARRANTY**

The Repairer warrants its workmanship for a period of ninety (90) days from the date of invoice to the Owner. In the event of a defect arising out of faulty workmanship during this warranty period, the Repairer will, upon inspection and to its satisfaction that the failure is caused by faulty workmanship, replace or repair any part which is required to put right the defect. Claims made under this warranty will only be accepted if the claim is within the ninety (90) days warranty period and meets the following conditions:

- (a) The machine or the failed part is returned to a Repairer authorised workshop.
- (b) The product has been used and maintained in accordance with Manufacturer's and the Repairer's recommendations and specifications.

This 90 day warranty term applies to labour only. New Parts supplied by the Repairer are warranted as per the Terms and Conditions – Sale of Goods.

16. **LIMITATION OF LIABILITY–**

16.1 In case of services which are supplied by the Repairer to a consumer within the meaning of the Competition and Consumer Act, 2010, our services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:

- (a) to cancel your service contract with us; and
- (b) to a refund for the unused portion, or to compensation for its reduced value.

You are also entitled to be compensated for any other reasonably foreseeable loss or damage. If the failure does not amount to a major failure you are entitled to have problems with the service rectified in a reasonable time and, if this is not done, to cancel your contract and obtain a refund for the unused portion of the contract.

16.2 To the extent that the services are not of a kind ordinarily acquired for personal, domestic or household use or consumption, the liability of the Repairer shall be limited, at the option of the Repairer, to the re-supply of the services or the cost of re-supplying them, and without limiting the generality of the foregoing, shall not include any other liability in respect of, arising out of or in connection with any special, consequential, direct or indirect loss, damage, harm or injury suffered or incurred as a result of such breach.

16.3 In the case of services which are supplied by the Repairer to person or corporation who or which is NOT a consumer within the meaning of the Competition and Consumer Act 2010:

- (a) any claim for defective Goods or workmanship must be made in writing to the Repairer within seventy two (72) hours after delivery. The Goods in respect of which any such claim is made shall be preserved intact as delivered for a period of fourteen (14) days after such notice is given or within which time the Repairer shall have the right to attend and inspect the same. Any breach of this condition shall disentitle the Owner to any consideration of such claim. The Repairer shall not be liable to make good any expenditure, damages and/or loss (including loss of profit for downtime) arising out of any user or dealing with any Goods repaired pursuant to this Contract, howsoever such expenditure, damage or loss shall arise and whether from any defect in the Goods or otherwise howsoever, the Repairer's liability shall be strictly limited to further repair of any such Goods on such Goods being returned to the Repairer; and
- (b) the Repairer shall not be liable for any special, consequential, direct or indirect loss, damage, harm or injury suffered or incurred by the Owner. Goods delivered to the Repairer

remain at the Owner's risk. The Repairer shall not be liable for any loss or damage to Goods in the Repairer's possession whether caused by the negligence of any of the Repairer's servants, agents or employees or any other cause whatsoever subject only to any rights accruing under the Competition and Consumer Act 2010 which cannot be modified or excluded.

17. **PASSING OF RISK** - Goods delivered to the Repairer remain at the Owner's risk and subject to Clause 16, the Repairer shall not be liable for any loss or damage to the Goods in the Repairer's possession whether caused by the negligence of any of the Repairer's servants, agents or employees or any other cause whatsoever.

18. **RETENTION OF GOODS** - The Repairer reserves the right to retain the Goods until payment, by way of cleared funds, for providing its service or any other consequential expenses has been received by the Repairer.

19. **PROPER LAW OF CONTRACT** - The Contract is made in the State of Australia where the relevant order was accepted and the parties agree to submit all disputes arising between them to the courts of such state at any court competent to hear appeals therefrom.

20. **Personal Property Securities Act 2009 (Cth) ("PPSA")**

- (a) The Owner acknowledges that this Contract creates a Security Interest in the Goods and is granted by the Owner to secure the payment of all amounts owing including but not limited to the Debt by the Owner under the terms of this Contract and the performance of all other obligations under this Contract.
- (b) The Owner agrees that the Security Interest created by this Contract attaches or otherwise takes effect immediately upon the Owner obtaining possession of the Goods. The Security Interest created by this Contract extends not only to the Goods but also to all and any proceeds arising from any dealings with the Goods.
- (c) The Owner agrees to do all things (including executing and delivering all documents) which the Repairer requires at any time to:
 - (i) ensure that this Contract creates a first-ranking perfected security interest for the purposes of the PPSA;
 - (ii) ensure that this Contract is perfected by control to the extent possible under the PPSA; and
 - (iii) otherwise protect, preserve and give full effect to the Repairer's powers under, and for all purposes of, the PPSA.
- (d) The Owner must not give another person an interest in, or any form of Security Interest over, any lease Contract or hiring Contract or the Goods, or authorise anyone else to do so, without the Repairer's consent.
- (e) The Owner must indemnify the Repairer against any costs (reasonably incurred) in connection with any action required to be taken by the Repairer under or in relation to the PPSA, including any registration, or any response to an amendment notice or demand under sections 178-182 of the PPSA or any demand or request under section 275 of the PPSA.
- (f) Without affecting the Owner's obligations under this Contract, if, in the opinion of the Repairer a PPS Law applies, or will in the future apply to this Contract or any of the transactions provided for or contemplated by it and that PPS Law:
 - (i) adversely affects or would adversely affect the Repairer's security position or the Repairer's rights or obligations under or in connection with this Contract ("Adverse Affection"); or
 - (ii) enables or would enable the Repairer's security position to be improved without adversely affecting the Owner in a material respect ("Improvement"),
 the Repairer may by notice to the Owner require the Owner to reasonably do anything (including assist with amending this Contract or executing any new document) that in the Repairer's opinion is necessary or desirable to ensure that, to the maximum possible extent, the Repairer's security position, and the Repairer's rights and obligations, are not subject to an Adverse Affection or are improved by an Improvement. The Owner must, acting reasonably, comply with the requirements of that notice within the time stipulated in the notice.
- (g) The Owner agrees that the Owner will only authorise the disclosure of information under section 275(7)(c) or request information under section 275(7)(d), if the Repairer approves. Nothing in this provision will prevent any disclosure by the Repairer that it believes is necessary to comply with its other obligations under the PPSA.
- (h) The Owner acknowledges that the Repairer may register one or more financing statements in relation to its Security Interests under



this Contract and that each such financing statement may be registered at any time.

- (i) To the extent permitted by law, if the PPSA applies, the Owner irrevocably waives any rights it may have to:
 - (i) Receive notices or statements under sections 95, 121(4), 125, 130, 132(3)(d), 132(4) and 135 of the PPSA;
 - (ii) Redeem the goods under section 142 of the PPSA;
 - (iii) Reinstate the Contract under section 143 of the PPSA;
 - (iv) Receive a verification statement as defined in the PPSA.
- (j) In this Contract, the terms used in this clause which are defined in the PPSA have the meanings given to those terms in the PPSA.

