



Sarsfield Engineering Limited T/A EquipmentShare  
PO Box 47272, Ponsonby, Auckland, 1144

email: info@equipmentshare.co.nz

PH:(09 8877866)

**CREDIT ACCOUNT APPLICATION**

FULL LEGAL NAME OF CUSTOMER (not trading name): \_\_\_\_\_ (“the Customer”)  
Date of Birth (individuals only): \_\_\_\_\_

TRADING AS: \_\_\_\_\_

Sole Trader  Partnership  Company  Other  \_\_\_\_\_

Nature/Type of Business: \_\_\_\_\_

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

Postal Address (if different from above): \_\_\_\_\_

Delivery Address for Goods \_\_\_\_\_

Contact Name & Position (re account queries): \_\_\_\_\_ Phone: \_\_\_\_\_

Telephone No: \_\_\_\_\_

Mobile No: \_\_\_\_\_

Email: \_\_\_\_\_

Full Names and Residential Addresses of Directors/Proprietors/Partners (if a company or partnership)

Name: \_\_\_\_\_ Address: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Name: \_\_\_\_\_ Address: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Name: \_\_\_\_\_ Address: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Next of kin not living at same address ( if application is for an individual ) Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_  Father  Mother  Other

Trade References:

1. \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

2. \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

3. \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

I certify that the above information is true and correct and that I am authorised to make this application for credit. I have read and understand the TERMS AND CONDITIONS OF RENTAL (attached) of Sarsfield Engineering Limited 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 authorise the use of my personal information as detailed in the Privacy Act clause therein.

Signed: \_\_\_\_\_ Name: \_\_\_\_\_ Date: \_\_\_\_\_

**GUARANTEE**

I/We, the persons named as Guarantor on the first page of this Application acknowledge that I/we am/are aware of all the provisions of this application and the terms upon which credit is to be provided to the Applicant and I/we hereby confirm that such credit as shall be made available to the Customer is at my/our request and the covenants contained in this Agreement (including any variation of this Agreement) shall bind me/us jointly and severally as a principal debtor.

Sarsfield Engineering Ltd (SEL) may at any time assign or transfer to any other person (whether or not acting as its security agent) all or any part of its rights, remedies and obligations under this Guarantee and any related or ancillary document without the Guarantor(s)'s consent. Each assignee or transferee will have the same rights and remedies against the Customer as SEL has under this Guarantee and any related or ancillary document.

To further secure the Indebtedness, the guarantor agrees SEL shall have the right, at its absolute discretion to complete and register a mortgage over any interest in any land owned or held by the guarantor now or in the future (whether a beneficial or legal interest owned jointly or alone, and as trustee or otherwise) and/or to lodge a caveat against the title to such land and the guarantor irrevocably appoints SEL as its attorney for the purposes of executing and registering such mortgage and specifically authorises SEL to lodge a caveat against such land if required, in the Event of Default.

The opportunity to seek independent legal advice has been provided (and is strongly recommended by SEL) but has been waived (delete this sentence if you have obtained legal advice). (INITIAL \_\_\_\_\_)

Full Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Witness Full Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Witness Address \_\_\_\_\_ Occupation \_\_\_\_\_ Dated: \_\_\_\_\_

# SARSFIELD ENGINEERING LIMITED T/A EQUIPMENTSHARE ("the Supplier")

## CREDIT ACCOUNT TERMS & CONDITIONS

### 1. Payment

In the event Sarsfield Engineering Ltd ("the Supplier") approves this Application, the Customer acknowledges and agrees that:

1.1. The account is to be maintained on strictly 20<sup>th</sup> of the month following basis.

1.2. Any account remaining unpaid after the due date for payment shall be liable to incur an interest charge of 1.5% of the amount unpaid per month (or part thereof). The Customer will pay all expenses and costs (including legal costs) incurred by or on behalf of the Supplier for recovering or attempting to recover, the overdue amount.

### 2. Event of Default

2.1. If, at any time and for any reason, an Event of Default occurs, then (without prejudice to any other remedies the supplier may have):

- a) the Supplier may suspend or cancel (in whole or in part) any order created under these Terms or any other contract with the Customer by written notice to the Customer;
- b) the Supplier may delay delivery of any Goods until the matter is resolved to the suppliers satisfaction;
- c) the Secured Indebtedness will become immediately due and payable;
- d) each security interest created under these Terms will become immediately enforceable;
- e) the Supplier may take possession of the Goods and any other Secured Property (including Goods that have become an accession under the PPSA) and may, without notice enter directly (or through its agents) on any premises where the Supplier reasonably believes the Goods are stored, without being liable to any person; . In respect of other Secured Property the Supplier may, in the name of the Customer or otherwise, at any time do anything and exercise any right which the Customer could do or exercise in relation to the Secured Property; and
- f) the Supplier may suspend all payment credit arrangements offered to the Customer immediately, without notice, until the Event of Default is remedied to the Suppliers satisfaction and require future orders to be paid in cash in full prior to Delivery.

2.2. The Supplier does not (and will not be deemed to) undertake any of the Customer's obligations in respect of the Secured Property by virtue of these Terms.

2.3. The Supplier is not required to marshal, enforce or apply under any security interest, guarantee or other entitlement held by the Supplier at any time or any money or property that the Supplier at any time holds or is entitled to hold.

2.4. The Customer irrevocably appoints, and ratifies the actions or omissions of, the Supplier, each nominee of the Supplier in whose name any Secured Property is registered, and each duly authorised officer or attorney of the Supplier severally, to be its attorney (**Attorney**) (with full power to appoint substitutes and to sub-delegate) on behalf of the Customer and in the Customer's name or otherwise and at its expense to complete, execute and otherwise perfect all assignments, security interests and other agreements and documents, and generally to do all other things which the Attorney may consider necessary or expedient to secure the Supplier the full benefit of its rights and intended rights under these Terms and any other contract with the Supplier to secure payment of the Secured Indebtedness and performance of the Customer's obligations to the supplier and any Related Company and any matters incidental thereto.

2.5. A certificate signed by the Supplier as to an amount due by the Customer shall be conclusive evidence of such for all purposes, including for any proceedings.

### 3. Security and Personal Property Securities Act

3.1. The Customer:

- a) agrees that the retention of title in these Terms creates a Purchase Money Security Interest (having the meaning given to that term in the PPSA) in all present and after acquired Goods (and their Proceeds) as security for payment of the purchase price for the Goods until such amount is paid in full; and

- b) grants to the Supplier (unless otherwise agreed in writing by the Supplier) a security interest in all of the Customer's present and after acquired personal property (as defined in the PPSA) as security for the due payment of all other Secured Indebtedness, and to secure performance of all obligations owing by the Customer to the Supplier or any Related Company; (such personal property under (a) and (b) is together the "**Secured Property**").

3.2. The Customer undertakes:

- a) To promptly do all things, execute all documents and/or provide any information which the Supplier, or any Related Company may reasonably require to enable the Supplier or any Related Company to perfect and maintain the perfection of its security interests (including by registration of a financing statement);

3.3. Each security interest created under these Terms is a continuing security, notwithstanding any intermediate payments or settlements of accounts or anything else and is in addition to, and is not to be merged with any other security or guarantee expressed or intended to be security for any Secured Indebtedness or any other obligations owing by the Customer to the Supplier or any Related Company.

3.4. The Customer waives its rights under the PPSA to receive a copy of any verification statement, financing statement or financing change statement (as those terms are defined in the PPSA) and agrees that:

- a) as between the Supplier and the Customer, the Customer will have no rights under (or by reference to) sections 114(1)(a), 116, 120(2), 121, 125, 129, 131, 133 and 134 of the PPSA;
- b) to the extent permitted by law these Terms exclude any other provisions of the PPSA which may be excluded in the Suppliers discretion and which would otherwise confer rights on the Customer; and
- c) where the Supplier has rights in addition to Part 9 of the PPSA, those rights will continue to apply.

3.5. The Customer acknowledges that it has received value as at the date of first delivery of the Goods and that the Supplier has not agreed to postpone the time for attachment of the security interest granted to the supplier under these Terms.

3.6. The Customer must not:

- a) change its name, address or contact details without providing the Supplier 30 days prior written notice.
- b) give to the Supplier a written demand, or allow any other person to give the Supplier a written demand requiring a financing change statement to be registered; or
- c) lodge a change demand or allow any other person to lodge a change demand, in each case in relation to a financing statement registered by the supplier under the PPSA.

3.7. The Customer will, upon demand, pay all the Suppliers expenses and legal costs (on a solicitor-client basis) in relation to or in connection with the registration, maintenance and enforcement of the Suppliers security interest.

3.8. To further secure the customers indebtedness to the supplier, the customer agrees the supplier shall have the right, at its absolute discretion, to complete and register a mortgage (in the form of the then current NZ Law Society all obligations mortgage) over any interest in any land owned or held by the Customer now or in the future (whether a beneficial or legal interest owned jointly or alone, and as trustee or otherwise) and/or to lodge a caveat against the title to such land, and the customer irrevocably appoints the supplier as its attorney for the purposes of executing and registering such mortgage and specifically authorises the Supplier to lodge a caveat against such land.

### 4. Suitability

4.1. The Customer must ensure that:

- a) all Goods are handled and used in accordance with any safety directions or guidance notes which are supplied with the Goods and any safety features of the Goods are not interfered with, modified or disabled;
- b) all Goods are used under appropriate supervision and with appropriate training;

- c) any staff or agents using or handling the Goods are instructed to comply with sub clauses (a) and (b); and

- d) it informs the Supplier if there is any suspected design or manufacturing fault that may affect the safety of the Goods in a work place.

4.2. The Customer acknowledges that:

- a) The Supplier does not warrant the suitability of any Good, service, design, person or organisation for the Customer's use;

- b) the Customer shall be responsible for ensuring that all instructions and recommended uses, are followed and any cautions and/or warnings observed;

- c) where any recommendation or advice has been given by or on behalf of the Supplier, it will not be responsible for the actual implementation of the recommendation or the advice, or actions or performance of a third party.

### 12. Privacy

12.1 The Supplier may at any time collect, hold and use information relating to this credit application for any purpose connected with its business including (but not limited to) direct marketing, debt recovery, credit reporting or assessment, and to register any security interest, including collecting information from, and disclosing information to, external credit reporting agencies, debt collection agencies and trade referees. Information disclosed by the Supplier to credit reporting agencies will be disclosed on the basis that it will be held and used by such agencies to provide credit reporting services. Under the Privacy Act 1993, individuals have rights to access to, and request correction of, their personal information by contacting the Supplier.

12.2 The Customer, any director signing on behalf of the Customer and any Guarantor authorises the Supplier to collect, hold and use information from any person or entity for any of the above purposes, and for such person or entity to disclose information to the Supplier, and the Customer further authorises the Supplier to disclose information to any person or entity for any of the above purposes and such person or entity to collect, hold and use information from the Supplier

**DEFINITIONS:** In these Terms:

- (a) **Customer** means the party(s) stated in the credit application form as the customer (together with its successors), or any other person whose order for the purchase of Goods is accepted by Sarsfield Engineering Ltd. If the Customer comprises more than one person, each of those person's liability and agreement is joint and several. Where the Customer is a trust, the trustees liability shall not be limited to the assets of the trust;
- (b) **The Supplier** in this instance means Sarsfield Engineering Ltd, or any trading name Sarsfield Engineering Ltd may utilise as a trading entity.

(c) **Event of Default** means:

- (i) where the Customer fails to pay, or in the Suppliers opinion is likely to fail to pay, any moneys owing when due; or
- (ii) where the Customer breaches, or in the Suppliers opinion is likely to breach, any non-monetary obligations owing to the Supplier or any Related Company whether under these Terms or otherwise; or
- (iii) the Customer commits an act of bankruptcy;
- (iv) the Customer's ownership or effective control is transferred without the consent of the Supplier
- (v) if the Customer:

A becomes insolvent or is unable to pay its debts as they fall due or is deemed or presumed to be so under any law;

B makes, or proposes to make, an assignment, arrangement, composition or compromise with, for the benefit of, or affecting its creditors in relation to any of its indebtedness; or

C a receiver, liquidator, trustee, manager, administrator or statutory or official manager or similar officer is or has been appointed in

respect of the Customer or over all or any of the Customer's assets;

- (d) **Goods** means all equipment, tools and accessories supplied by the Supplier to the Customer (together with any Services forming part of the supply of Goods) and in respect of each order of Goods placed by the Customer, the Goods described in the invoice issued by the Supplier in respect of such order;
- (e) **GST** means any amounts levied or charged pursuant to the Goods and Services Tax Act 1985;
- (f) **PPSA** means the Personal Property Securities Act 1999 (as amended from time to time);
- (g) **Proceeds** has the meaning given to it in the PPSA;
- (h) **Related Company** has the meaning given to it in the Companies Act 1993;
- (i) **Receiver** means any person appointed as a receiver or manager under these Terms or any security;
- (j) **Secured Indebtedness** means all indebtedness, of whatever nature, which the Customer is now or at any subsequent time actually, prospectively or contingently liable to pay to Sarsfield Engineering Ltd or any Related Company (including, for the purposes of the PPSA, future advances under or in connection with these Terms or any related or ancillary document);
- (k) **Secured Property** has the meaning given in clause 3;
- (l) **Services** means any services performed by the Supplier (its employees, agents or subcontractors) as part of supplying the Goods;
- (m) **Terms** means these terms and conditions, as amended from time to time under and presented in the EquipmentShare Rental Agreement.