

Novocastrian Scaffolding & Access Equipment Pty Ltd

ABN: 57 059 839 673

COMMERCIAL CREDIT TERMS OF TRADE

AGREED TRADING TERMS - 30 DAY ACCOUNT

A reference to "the Supplier" means Novocastrian Scaffolding & Access Equipment Pty Ltd. (ABN: 57 059 839 673) (hereinafter referred to as the Supplier). The Customer acknowledges that these are the "AGREED TRADING TERMS" and that an Application is required to the Supplier, prior to the granting of a Commercial Credit Account. Such Account is only effective upon receipt of a written approval from the Supplier. Please read the undermentioned terms carefully. If you do not understand these terms of trade you should seek legal advice.

1. The agreed trading terms are 30 days, ie., payment is due **by the last working day of the month following the month of invoicing.**
2. **LATE PAYMENT.** The Customer hereby agrees & acknowledges that at the absolute discretion of the Supplier, an account keeping fee of 5% per month will be levied on any or all amounts in default of the agreed trading terms.
3. **COSTS.** The Customer further agrees to indemnify the Supplier for any legal costs incurred by the Supplier (including but not limited to charges & commission charged by mercantile agents) in respect of this application, agreements, personal guarantees, securities given or other documentation required whilst credit is being offered in consequence of this application, and the Customer further agrees to indemnify the Supplier for any fees incurred and in the event that the Customer's account is in default of the agreed trading terms to indemnify the Supplier against all its collection fees & legal costs.
4. **CREDIT TERMS.** The Supplier may withdraw credit facilities to the Customer at any time without notice. Without limiting the Suppliers rights to withdraw credit, the Supplier reserves the right to stop supply & place the account on hold until the account is returned to the agreed trading terms, and the Supplier agrees to recommence supply.
5. **ALL TRANSACTIONS.** These Terms of Trade apply to all transactions from which the Customer is supplied scaffolding on credit. If any future contract between the Supplier & the Customer is inconsistent with these Terms of Trade, then these Terms of Trade will apply unless the subsequent contract refers to and specifically alters these Terms of Trade in writing.
6. **VARIATION.** Should there be any variation to any of the information supplied by the Customer in this application or in the structure of the Customer's business (such as a conversion to or from a company or trust or the appointment of new directors), the Supplier shall be notified in writing. Until a new application form is signed and approved in writing by the Supplier, then the original application and those person(s) who signed as guarantor(s) shall remain liable to the Supplier as though all hire of scaffolding were supplied to the original Customer.
7. **AMENDMENT.** The Supplier reserves the right to amend these trading terms, provided such amendments are conveyed to the Customer in writing. The Customer further acknowledges that such writing will be by ordinary mail to the address set out in this Commercial Credit Application, unless the Customer advises in writing to the Supplier a new address, and this new address is acknowledged by return in writing by the Supplier.
8. **ASSIGNMENT.** The Supplier shall be entitled at any time to assign its rights under this Commercial Credit Application to its successors, nominated transferees or assigns, (including but not limited to, where applicable personal guarantees), and that these Terms of Trade shall not be in any way affected or discharged pursuant to such assignment.
9. **CAVEATABLE INTEREST CLAUSE:** In the event of Default of the agreed trading terms by the Customer, then the Customer by its Director(s)/Proprietor(s)/Partners/Individual(s), nominated on Page 3 & 4 of this application hereby charge all their Right, Title of Interest (if any) to any or all property(ies) owned or partly owned solely or jointly by the said Customer/Director(s)/Proprietor(s)/ Partners/ Individual(s) on Page 3 & 4 of this application in favour of the Supplier, with the due and punctual observance and performance of all of the obligations of the Customer hereunder. Such Customer acknowledges that the Supplier may at its discretion, register a caveat on such property in respect of the interest conferred on it under this clause. In the event that the Supplier is required to exercise its right under this clause, against the Customer, then the Customer grants to the Supplier the right to appoint a Receiver and sell the property(ies).
10. **RETENTION OF TITLE:** Until **ALL INVOICES** are paid in full, and **ALL MONIES** receipted and cleared, ownership of the goods remain with the Supplier, but the risk passes to the Customer on delivery. Delivery shall occur if the Supplier or its Agent delivers, on delivery, and or if the Customer or its Agent(s) takes delivery, at that point of delivery. Until the Supplier is paid in full, the relationship of the Customer to the Supplier shall be fiduciary in respect of the goods and the Customer shall hold the goods as bailee only for the Supplier. The Customer shall store the goods separately from its own until ownership has manifested in the Customer. Should the goods be on sold to a third party before payment, or in the event of the Appointment of an Administrator, Controller, Managing Controller, Receiver or Receiver Manager, or entry into an Informal/Formal Deed of Arrangement under the Bankruptcy Act 1966 by the Customer, then the Customer hereby assigns to the Supplier its right of recovery of payment from the third party. The money (ies) resulting from the sale of the goods are to be specifically earmarked and placed in a separate account on trust for the Supplier, until payment in full is made to the Supplier for the cost of the goods only, to guarantee clear passage of ownership to the third party innocent purchaser. In the event the Customer is in default of the agreed trading terms, then the Customer without reservation grants right of entry waiver to any or all properties under the Customers control, where the goods are reasonably expected to be stored. The Customer indemnifies and save harmless the Supplier, its servants or agents in relation to loss or damage as a result of the retaking of possession of the said goods. Further in the event the Supplier exercises its right of retaking possession of the said goods, the Customer grants power of sale to the Supplier to resell the said goods and the Customer acknowledges that any shortfall owing after the said goods are resold will be the responsibility of the Customer.
11. **FAIR WEAR AND TEAR.** Hire rates provide for fair wear and tear and when scaffolding is returned in a condition other than when the scaffolding was delivered to the Customer a further charge for cleaning, reconditioning, renewing or replacement of the scaffolding will be charged where deemed appropriate by the Supplier and the Supplier's decision will be final and binding on the Customer.
12. **PERSONAL PROPERTY SECURITIES ACT 2009 ("the Act").** The Supplier reserves its right to register its security interest created by this Commercial Credit Application pursuant to the Act, Regulations and amendments thereto and the Customer ("grantor") consents to such Registration to perfect the interest as a purchase money security interest. Further the Customer/Grantor acknowledges that all monies for the cost price only of the inventory, is to be earmarked and held in a separate bank account on trust for the Customer to permit the Customer/Grantor to use these monies to continue to purchase inventory from the Supplier. Further the Customer/Grantor is to provide fourteen (14) days Notice to the Supplier prior to granting any non purchase money interest to another creditor. In this even the Supplier reserves its right to enforce the recovery of any monies outstanding and further to recover any inventory held by the Customer.

4 Glenwood Drive, THORNTON NSW 2322

(P.O. Box 3320 Thornton NSW 2322)

2 Hulberts Road, TOORMINA NSW 2452

Telephone: (02) 4028 6858 Thornton

Telephone: (02) 6658 7520 Toormina

Email: office@novoscaff.com.au

- 13. STATEMENTS.** Statements as to suitability, quality, fitness for purpose, capacity or otherwise provided by the Supplier shall not be regarded as forming part of the agreed trading terms resulting from acceptance of any order(s) unless specifically stated in writing by the Supplier. The Customer warrants that prior to the creation of these agreed trading terms the Customer warrants that it was satisfied by means other than information given by, or received from the Supplier, as to the quality and suitability of the scaffolding provided and also it is the responsibility of the Customer to ensure that all staff employed to work on the scaffolding are fully trained and conversant with all Occupational Health and Safety Rules pertaining to working with and on scaffolding.
- 14. DELIVERY.** When scaffolding is delivered to the Customer or their agent, the Customer or their agent shall sign the Supplier's delivery docket presented by the Supplier, and this shall be conclusive proof of the delivery in good order and condition and quantity of the scaffolding listed on the delivery docket. In the event the Customer and or the Customer's agent is not on site to sign for the delivery, then the delivery docket will be signed by the Supplier's driver's signature, such signature shall be deemed to be conclusive proof of the delivery in good order and condition and in the quantity ordered by the Customer.
- 15. ERECTION OF SCAFFOLDING.** The date for the erection of scaffolding set forth in the order form is made in good faith, but the performance of the Supplier's engagement is subject to industrial disturbances, delay in transit, shortage of scaffolding and or any other cause beyond the control of the Supplier. The Supplier shall be excused from any failure to erect and or complete which is contributed to by any such cause and the time specified for the completion of the erection of the scaffolding shall be extended commensurately.
- 16. SERVICE OF DOCUMENTS.** The Customer acknowledges that service of all documents will be by email and or prepaid postal addressed envelope to the email and or street address nominated on this Commercial Credit Application form, unless a new address is provided by the Customer and such new address is acknowledged by return in writing from the Supplier. Note the Customer expressly acknowledges that service is deemed to be effected after the expiration of 2 working days from date of posting of the documents and or immediately the documents are sent by email.
- 17. ACCESS TO SITE:** The Customer at all times is responsible to ensure suitable access and directions to site are provided to the Supplier for delivery of the scaffolding. The Customer further indemnifies and saves harmless the Supplier, and or it's servants or agents against any loss or damage, in the event the Customer fails to provide suitable access and directions to site.
- 18. PRICE:** The cost of all services provided by the Supplier are those at the price current at the time of provision of the services. All quotes are valid for a period of 30 days from the date of issue of the quote.
- 19. USE OF SCAFFOLDING.** The Customer hereby indemnifies and saves harmless the Supplier in respect of any claim whatsoever, for injury of a person and or damage to property caused by and or in connection with and or use of the scaffolding by the Customer whether arising under contractual, statute or common law.
- 20.** The Supplier reserves the right to revise, requote for any project outside of the thirty (30) day period.
- 21. RETURN OF SCAFFOLDING.** It is the responsibility of the Customer to return the scaffolding. The scaffolding is to be returned to the Supplier's yard, at which time an "off hire" number will be issued by the Supplier to the Customer. If the Customer is unable to return the scaffolding, then the costs incurred by the Supplier to collect and return the scaffolding to the Supplier's yard will be the cost of the customer.
- 22. CREDIT CLAIMS:** It is the responsibility of the Customer to carefully inspect the scaffolding immediately it is provided. Credit Claims will only be recognised if made in the first instance by phone within **72 HOURS** of receipt, and also in writing within 7 days of delivery. Claims outside this period will be at the absolute discretion of the Supplier, and its decision final and binding on the Customer.
- 23. RETURN OF, OR CANCELLATION OF SCAFFOLDING.** In the event the Customer elects to return the scaffolding prior to the agreed hire period the Supplier at its absolute discretion reserves the right to charge a 10% handling fee on the Invoice amount involved. Further no return of the scaffolding will be accepted, without the prior written approval of the Supplier.
- 24. SPECIAL ORDERS:** Special orders attract a 50% deposit which will be debited to the Customer's account upon receipt of a written order for services outside our normal provision of the supplier.. **NOTE:** - No return of or cancellation of special orders will be accepted once the Special Order has been commenced.
- 25. WARRANTIES:** All scaffolding provided carries only such warranty of the manufacturer thereof, or as implied by law as covered under Consumer and Competition Act 2010 (Cth). **NOTE** - No warranty work will be completed whilst ever the Customer's account is in default of the agreed trading terms.
- 26. DAMAGES:** The Supplier shall not be liable for any amount greater than the limitation as per Clause 1 of the Agreed Trading Terms. Without Limiting the meaning of this clause, the Supplier shall not be liable for any claims, loss, expense whatsoever, howsoever arising, or in any event in any way whatsoever for any contingent, consequential direct/indirect special, or punitive damages arising in relation thereto, and the Customer acknowledges this express limit or liability and agrees to limit any claim accordingly. Further the Supplier shall not be responsible directly or indirectly for any consequential loss or damage, by the Customer, or to any third party, or from any failure of the designs, documents produced and or drawings produced whether defective or not.
- 27. SET OFF CLAUSE.** The Customer is not entitled to set off, deduct or otherwise withhold payment of any amount due and owing to the Supplier including in circumstances where the Customer has disputed the invoice or alleged amounts are owed or will become owing by the Supplier to the Customer.
- 28. GST:** GST will be charged where appropriate, unless a signed exemption form is received by the Supplier in the approved prescribed manner as set down by the Australian Tax Office.
- 29. ENVIRONMENTAL REQUIREMENTS:** The Customer confirms and acknowledges it has made all inquiries in relation to all responsibilities conferred upon the Customer, by all relevant legislation, relating to use of the scaffolding provided by the Supplier.
- 30. INSURANCE.** No insurance of the scaffolding is provided by the Supplier, it is the responsibility of the Customer to ensure that the scaffolding is insured whilst ever the scaffolding is in the possession of the Customer.
- 31. JURISDICTION:** The Customer acknowledges that this contract shall be governed by the Laws of the State of New South Wales, and the Customer hereby agrees to submit to the non exclusive jurisdiction of the Courts of New South Wales.

Please detach this form, complete all details and forward directly by email to Novocastrian Scaffolding & Access Equipment

Novocastrian Scaffolding & Access Equipment Pty Ltd

ABN 57 059 839 673 - Address: 4 Glenwood Drive, Thornton NSW 2322

(P.O. Box 3320 Thornton NSW 2322) Telephone: 02 4028 6858

Coffs Harbour Address: 2 Hulberts Road, Toormina NSW 2452

Telephone: 02 6658 7520 Email: office@novoscaff.com.au

APPLICATION FOR COMMERCIAL CREDIT - 30 DAY TRADING ACCOUNT

Customer's Business Operated As Follows:

☐ Pty Ltd Company ☐ Sole Trader ☐ Partnership ☐ Individual ☐ Trust

CUSTOMER ACCOUNT DETAILS: (Hereinafter referred to as the "Customer")

1.	Account Name: _____	ACN No / ABN No: _____
	If Company, Reg Office Address: _____	
2.	Customers Trading Address: _____	
3.	Postal Address For Accounts: _____	
4.	Account Contact Inquiries: Name: _____	Title: _____
	Mobile/Landline No: _____ / _____	Email Address: _____
5.	Are Trading Premises Owned: <input type="checkbox"/> Yes <input type="checkbox"/> No or Leased? <input type="checkbox"/> Yes <input type="checkbox"/> No	Web Site Address: _____
	If Leased, Name of Agent: _____	Agent Phone No: () _____
	Lease Period From: _____ To: _____	How long in Business: _____
6.	Details of Credit Applicant (**Delete as appropriate**) Name of Director(s)/Proprietor(s)/Partner(s)/Individual(s)	
	Full Name	Residential Address
		Mobile Number: _____
		Owned/ Rented
		Drivers License No: _____
7.	Trade References: (Minimum of three (3) to be supplied to the value of the credit sought)	
	Supplier	Email Address: _____
		Telephone No: _____
		Average Monthly Purchases: _____
8.	Bank: _____	Branch: _____
		Acct No: _____

I/WE THE CUSTOMER ACKNOWLEDGE AS FOLLOWS:

9. **COMMERCIAL CREDIT TERMS OF TRADE:** To having received the Commercial Credit Trading Terms which were attached to this application.
10. **PERSONAL GUARANTEE & INDEMNITY:** That if the Customer is a Company, then the Directors will execute the Personal Guarantee & Indemnity on the reverse of this Application.
11. **DUTY OF DISCLOSURE.** The Customer Warrants not to be in receipt of any information, notice or court proceedings that may lead to Bankruptcy, Appointment of an Administrator, Controller or Managing Controller, Receiver or Receiver Manager or Liquidator, and that the Customer does not intend to enter into any scheme of arrangement with creditors either formally through a court, or otherwise. Further the Customer Warrants that none of its directors have been a director of a company placed in liquidation or administration, or has been declared a bankrupt or entered into an arrangement, under the Bankruptcy Act 1966 (as amended).
12. **PRIVACY ACT:** You authorise the Supplier to obtain from a credit reporting agency details of your personal and commercial credit information if required

THIS IS TO CERTIFY: that I/We have read, understand and accept the Commercial Credit Terms of Trade, and further acknowledge that I/We understand & accept paragraphs 9-12 above, and that I/We are authorised to make this application on behalf of the Customer, and without undue pressure or unfair tactic,

APPLICATION: * NOTE: IF COMPANY SEE OVERLEAF FOR PERSONAL GUARANTEE & INDEMNITY *****

Signature: _____	Date: _____
Printed Name: _____	Position/Title _____
Signature: _____	Date: _____
Printed Name: _____	Position /Title _____

PERSONAL GUARANTEE, INDEMNITY & CAVEATABLE INTEREST CLAUSE
☐ **TO: NOVOCASTRIAN SCAFFOLDING AND ACCESS EQUIPMENT PTY LTD ABN: 57 059 839 673**

(hereinafter referred to as "the Supplier"), **In consideration** of the Supplier supplying goods or services or both to the Customer referred to at the bottom of this form, the Guarantor(s) and Indemnifier(s) set out below hereby Guarantee and Indemnify to the Supplier due and punctual payment by the Customer of all monies which are now payable or may in the future become payable by the Customer to the Supplier for goods & services or both supplied from time to time by the Supplier to the Customer, and all damages payable by the Customer to the Supplier, ("the secured moneys") **AND** it is hereby further agreed as follows:

1. The secured moneys shall include collection fees and legal costs incurred by the Supplier in connection with the default by the Customer.
2. The Supplier is at liberty without notice to us at any time and without in any way discharging us from any liability hereunder to grant time, waiver, release or other indulgence to the Customer and to accept from the Customer payment in cash, cheque, EFT or otherwise.
3. Nothing in this Guarantee and Indemnity is binding or conditional upon the Supplier continuing to supply goods or services or both to the Customer.
4. That the Supplier may exercise its rights under this Guarantee and Indemnity at any time and the Guarantor(s) and Indemnifier(s) shall pay the amount of any indebtedness of the Customer account to the date of any demand, forthwith upon receipt of a written demand, or its delivery to the last known address of each or all Guarantor(s) and Indemnifier(s). It shall not be a condition precedent to the issue of any such demand that the Supplier shall have exercised or exhausted its legal rights against the Customer.
5. The Guarantor(s) and Indemnifier(s) hereby guarantee and indemnify the Supplier against any losses or expenses whatsoever directly or indirectly arising from or by virtue of any default whatsoever on the part of the Customer with respect to the secured moneys.
6. This Guarantee and Indemnity shall not be considered wholly or partially discharged by the payment at any time hereafter of any of the secured moneys or by any settlement of account and shall apply to the present and any future balance of the secured moneys.
7. This Guarantee and Indemnity shall be a continuing Guarantee and Indemnity to the Supplier for all debts whatsoever and wheresoever contracted with the Customer in respect of the goods or services or both supplied or to be supplied to the Customer.
8. The Guarantor(s) and Indemnifier(s) may revoke this Guarantee and Indemnity at any time. Such revocation shall be effective only upon its delivery to the Secretary of the Supplier at its registered address and shall become effective at the time of written acknowledgment by the Secretary of its receipt. Such notice of revocation shall only operate to discharge the Guarantor(s) and Indemnifier(s) from liability as to future dealing by the Customer with the Supplier after the said date of written acknowledgment.
9. That the Supplier shall be entitled at any time to assign its rights under this Guarantee and Indemnity to its successors, nominated transferees or assigns, (including but not limited to the principal contract), & further vary the Terms of Trade originally attached to the Commercial Credit Application of the Customer nominated below, without notice to the Guarantor(s) and Indemnifier(s), & that this Guarantee and Indemnity shall not be in any way affected or discharged pursuant to such assignment or variation.
10. That the terms of this Guarantee and Indemnity are binding (if more than one) jointly on us & severally on each of us & shall not be affected not withstanding that one or more of the intended co-guarantor(s)/indemnifier(s) have not executed this Guarantee and Indemnity or that the Guarantee and Indemnity has been held to be ineffective or unenforceable against one or more of the Guarantor(s) and Indemnifier(s)
11. That in the event that the Customer is a company and the Guarantor(s) and Indemnifier(s) are not directors then the Guarantor(s) and Indemnifier(s) certify that they have obtained independent commercial financial & legal advice prior to signing this personal Guarantee & Indemnity.
12. **CAVEATABLE INTEREST CLAUSE. In the event of default by the Customer**, and the Supplier exercises its rights under this Guarantee and Indemnity, then the Guarantor(s) and Indemnifier(s) hereby charge all their property(ies) now owned or partly owned, or may in the future become owned, solely or jointly by the Guarantor(s) and Indemnifier(s) in favour of the Supplier to better secure the monies outstanding, with the due & punctual observances and performances of all of the obligations of the Guarantor(s) and Indemnifier(s) hereunder. The Guarantor(s) and Indemnifier(s) acknowledges that the Supplier will at its discretion register a Caveat on such property in respect of the interest conferred on it under this clause. The Guarantor(s) and Indemnifier(s) further grant to the Supplier the right to appoint a Receiver to sell the property(ies).
13. The Guarantor(s) and Indemnifier(s) agree that the Supplier will seek from a Credit Reporting Agency, a Credit Report containing personal information about me/us to assess whether to accept me/us as a Guarantor(s) and Indemnifier(s) for Commercial Credit applied for, or provided to, the Customer.
14. I/We agree that if the Supplier approves the Customer's application for Commercial Credit, this agreement to seek credit reports from time to time, remains in force until the Commercial Credit facility covered by the Customer's application ceases.

This is to Certify that I/We have read, understood and accept the terms and conditions of this Personal Guarantee and Indemnity and Caveat Clause and without undue pressure or unfair tactic append my/our Signature hereunto. I/We acknowledge having received a copy of this said Personal Guarantee and Indemnity.

CUSTOMER'S NAME:

EXECUTED AS A DEED THIS DAY OF YEAR

SIGNATURE OF GUARANTOR: _____ **NAME: (print)** _____
Address: _____

SIGNATURE OF WITNESS: _____ **NAME: (print)** _____
Address: _____

SIGNATURE OF GUARANTOR: _____ **NAME: (print)** _____
Address: _____

SIGNATURE OF WITNESS : _____ **NAME: (print)** _____
Address: _____