



4272 8300

A Plus Quality Temp Fence Pty Ltd

TRADE ACCOUNT APPLICATION

To Be Completed By Applicants - Please complete all sections and read the Terms and Conditions of Trade overleaf or attached.

DATE: _____ REF No. _____

CLIENT'S TRADE NAME: _____

CLIENT'S FULL or LEGAL NAME: _____

Phone: _____ Fax: _____

Mobile: _____ Email: _____

Billing Address: _____ Physical Address: _____

State: _____ Postcode: _____ State: _____ Postcode: _____

COMMERCIAL CLIENTS ONLY

ABN/ACN Number: _____

Are Purchase Order Numbers Required: _____ Date Established: _____

Contact 1: _____ Contact 2: _____

Position: _____ Position: _____

Phone: _____ Phone: _____

DETAILS OF OWNER (If Sole Trader) PARTNERS (If Partnership) OR DIRECTORS (If Company) OR TRUSTEE (If a Trust)

Full Name: _____ Full Name: _____

Home Address: _____ Home Address: _____

Postcode: _____ Date of Birth: _____ Postcode: _____ Date of Birth: _____

Home Phone: _____ Home Phone: _____

TRADE REFERENCES

Business Name 1: _____ Business Name 2: _____

Address or A/C No: _____ Address or A/C No: _____

Phone: _____ Phone: _____

Fax: _____ Fax: _____

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 TRADE (overleaf or attached) of A Plus Quality Temp Fence Pty Ltd 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. ***I agree that if I am a director/shareholder (owning at least 15% of the shares) of the Client I shall be personally liable for the performance of the Client's obligations under this contract.***

SIGNED (A PLUS): _____ SIGNED (CLIENT): _____

Name: _____ Name: _____

Position: _____ Position: _____

WITNESS TO CLIENT'S SIGNATURE:

Signed: _____ Name: _____ Date: _____

A Plus Quality Temp Fence Pty Ltd – Terms & Conditions of Hire

1. **Definitions**
- 1.1 "A Plus" means A Plus Quality Temp Fence Pty Ltd, its successors and assigns or any person acting on behalf of and with the authority of A Plus Quality Temp Fence Pty Ltd.
- 1.2 "Client" means the Client or any person acting on behalf of and with the authority of the Client.
- 1.3 "Equipment" means all Equipment (including any accessories) supplied on hire by A Plus to the Client (and where the context so permits shall include any incidental supply of services). The Equipment shall be as described on the invoices, quotation, authority to hire, or any other work authorisation forms as provided by A Plus to the Client.
- 1.4 "Minimum Hire Period" means the Minimum Hire Period as described on the invoices, quotation, authority to hire, or any other forms as provided by A Plus to the Client.
- 1.5 "Price" means the cost of the hire of the Equipment as agreed between A Plus and the Client subject to clause 4 of this contract.
- 1.6 "Damage Waiver" means cover for repairable damage to hired equipment as described on the invoices.
2. **The Commonwealth Competition and Consumer Act 2010 ("CCA") and Fair Trading Acts ("FTA")**
- 2.1 Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the CCA or the FTA in each of the States and Territories of Australia (including any substitute to those Acts or re-enactment thereof), except to the extent permitted by those Acts where applicable.
- 2.2 Where the Client hires Equipment as a consumer these terms and conditions shall be subject to any laws or legislation governing the rights of consumers and shall not affect the consumer's statutory rights.
3. **Acceptance**
- 3.1 Any instructions received by A Plus from the Client for the hire of Equipment and/or the Client's acceptance of Equipment supplied on hire by A Plus shall constitute acceptance of the terms and conditions contained herein.
- 3.2 Where more than one Client has entered into this agreement, the Clients shall be jointly and severally liable for all payments of the Price.
- 3.3 Upon acceptance of these terms and conditions by the Client the terms and conditions are irrevocable and can only be amended with the written consent of A Plus.
- 3.4 The Client shall give A Plus not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client or any change in the Client's name (including any other change in the Client's details) but not limited to, changes in the Client's address, facsimile number, or business practice). The Client shall be liable for any loss incurred by A Plus as a result of the Client's failure to comply with this clause.
- 3.5 Equipment is supplied by A Plus based only on the terms and conditions of hire herein to the exclusion of anything to the contrary in the terms of the Client's order notwithstanding that any such order is placed on terms that purport to override any terms and conditions of hire.
- 3.6 The Client acknowledges that A Plus shall give the Client an "off hire" number (which the Client should retain) once the Equipment has been returned or A Plus is retained to collect the Equipment. The off-hire number confirms the expiration of the rental period.
4. **Price and Payment**
- 4.1 At A Plus' sole discretion the Price shall be either:
 - (a) as indicated on invoices provided by A Plus to the Client in respect of Equipment supplied on hire; or
 - (b) A Plus' quoted Price (subject to clause 4.2) which shall be binding upon A Plus provided that the Client shall accept in writing A Plus' quotation within thirty (30) days.
- 4.2 A Plus reserves the right to change the Price in the event of a variation to A Plus' quotation. Any variation from the plan of scheduled works or specifications (including, but not limited to, any variation as a result of additional work required to be hidden or fully identifiable difficulties or as a result of increases to the Seller in the cost of materials and labour) will be charged for on the basis of the Seller's quotation and will be shown as variations on the invoice. Payment for all variations must be made in full at their time of completion.
- 4.3 At A Plus' sole discretion:
 - (a) payment shall be due before delivery of the Equipment; or
 - (b) payment for equipment or any other change in hire shall be made by instalments in accordance with A Plus' payment schedule.
- 4.4 Time for payment for the Equipment shall be of the essence and will be stated on the invoice or any other forms. If no time is stated then payment shall be due seven (7) days following the date of the invoice.
- 4.5 The Client acknowledges and agrees to pay A Plus a hire fee which shall be calculated in accordance with the rates. This fee must be paid in the manner and in accordance with the payment terms specified in clause 4.1.
- 4.6 Payment will be made by cash, or by cheque, or by bank cheque, or by credit card (plus a surcharge of up to three percent (3%) of the Price), or by direct credit, or by any other method as agreed to between the Client and A Plus.
- 4.7 Receipt by A Plus of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised.
- 4.8 The Client must not deduct any part of the hire fee as retention money.
- 4.9 GST and other taxes and duties that may be applicable shall be added to the Price except when they are expressly included in the Price.
5. **Hire Period**
- 5.1 For Equipment in which a timing device is installed the hire period shall be the number of hours or part thereof recorded on the timing device whilst the Equipment is in the Client's possession.
- 5.2 Where the Equipment does not have a timing device installed hire charges shall commence from the time the Equipment is collected by the Client from A Plus' premises and will continue until the return of the Equipment to A Plus' premises, and/or until the expiry of the Minimum Hire Period, whichever last occurs.
- 5.3 If A Plus agrees with the Client to deliver and/or collect the Equipment, hire charges shall commence from the time the Equipment leaves A Plus' premises and continue until the Client notifies A Plus that the Equipment is returned or collected, and/or until the expiry of the Minimum Hire Period, whichever last occurs.
- 5.4 The date upon which the Client advises of termination shall in all cases be treated as a full day's hire.
- 5.5 No allowance whatsoever can be made for time during which the Equipment is not in use for any reason, unless A Plus confirms special prior arrangements in writing. In the event of Equipment breakdown provided the Client notifies A Plus immediately, hiring charges will not be payable during the time the Equipment is not working, unless the condition is due to negligence or misuse on the part of or attributable to the Client.
6. **Delivery of the Equipment**
- 6.1 At A Plus' sole discretion delivery of the Equipment shall take place when:
 - (a) the Client takes possession of the Equipment at the Client's address; or
 - (b) A Plus' nominated carrier takes possession of the Equipment in which event the carrier shall be deemed to be A Plus' agent and risk for the Equipment does not pass until the Client takes possession of the Equipment at the Client's address.
- 6.2 At A Plus' sole discretion the costs of Delivery is included in the Price.
- 6.3 A Plus may deliver the Equipment by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions in these terms and conditions.
- 6.4 The Client shall be responsible for free access by A Plus to the site on which the Equipment is located. If there are any delays due to free access not being available then the Client shall be responsible and shall reimburse A Plus for all lost hire fees associated with the Equipment being unavailable. The Client shall also be responsible for all other expenses and costs incurred by A Plus due to delays in access to the Equipment. The off-hire receipt will be issued when the Equipment is picked up by A Plus or returned to A Plus' premises.
- 6.5 It shall be the Client's responsibility to ensure that all Equipment is properly secured for the purposes of transporting to ensure the safety of the Equipment to and from the location in which the Equipment is being used.
- 6.6 The failure of A Plus to deliver shall not entitle either party to treat this contract as repudiated.
- 6.7 A Plus shall not be liable for any loss or damage whatever due to failure by A Plus to deliver the Equipment (or any of it) promptly, or at all, where due to circumstances beyond the control of A Plus.
7. **Risk**
- 7.1 A Plus retains property in the Equipment nonetheless all risk for the Equipment passes to the Client on delivery.
- 7.2 The Client accepts full responsibility for the safekeeping of the Equipment and indemnifies A Plus for all loss, theft, or damage to the Equipment however caused and without limiting the generality of the foregoing
- 7.3 whether or not such loss, theft, or damage is attributable to any negligence, failure, or omission of the Client.
- 7.4 The Client will insure, or self insure, A Plus' interest in the Equipment against physical loss or damage including, but not limited to, the perils of accident, fire, theft and burglary and all other usual risks and will effect adequate Public Liability Insurance covering any loss, damage or injury to property arising out of the Equipment. Further the Client will not use the Equipment nor permit it to be used in such a manner as would permit an insurer to decline any claim.
- 7.5 The Client accepts full responsibility for and shall keep A Plus indemnified against all liability in respect of all actions, proceedings, claims, damages, costs and expenses (including any injury to persons or damage to property arising out of the use of the Equipment during the hire period however arising and whether or not arising from any negligence, failure or omission of the Client or any other persons).
8. **Damage Waiver**
- 8.1 When a damage waiver charge (at A Plus' current rate) is paid by the Client, A Plus will not make a claim against the Client for any repairable damage to the Equipment during the period covered by the charge. This damage waiver is conditional upon the Client paying a Damage Waiver fee, and shall only apply when the Client has used the Equipment in accordance with this agreement. Damage Waiver does not cover for lost, stolen or unrepairable damage.
9. **Title**
- 9.1 The physical is and will at all times remain the absolute property of A Plus.
- 9.2 If the Client fails to return the Equipment to A Plus then A Plus or A Plus' agent may (as the invitee of the Client) enter upon and into land and premises owned, occupied or used by the Client, or any premises where the Equipment is situated and take possession of the Equipment, without being responsible for any damage thereby caused.
- 9.3 The Client shall not be authorised to pledge A Plus' credit for repairs to the Equipment or to create a lien over the Equipment in respect of any repairs.
10. **Defects**
- 10.1 The Client shall inspect the Equipment on delivery and shall within forty eight (48) hours notify A Plus of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Client shall afford A Plus an opportunity to inspect the Equipment within a reasonable time following delivery if the Client believes the Equipment is defective in any way. If the Client shall fail to comply with these provisions the Equipment shall be presumed to be free from any defect or damage. For defective Equipment, which A Plus has agreed in writing that the Client is entitled to reject, A Plus' liability is limited to either repairing or replacing the Equipment, except where the Client has hired Equipment as a consumer within the meaning of the Competition and Consumer Act 2010 (C/Wh) and therefore also entitled to, either a refund of the hire price of the Equipment, or repair of the Equipment, or replacement of the Equipment.
11. **Client's Responsibilities**
- 11.1 The Client shall:
 - (a) notify A Plus immediately by telephone of the full circumstances of any mechanical breakdown or accident. The Client is not absolved from the requirements to safeguard the Equipment by giving such notification;
 - (b) satisfy itself at commencement that the Equipment is suitable for its purposes;
 - (c) operate the Equipment safely, strictly in accordance with the law, only for its intended use, and in accordance with any manufacturer's instruction whether supplied by A Plus or posted on the Equipment;
 - (d) ensure that all persons operating or erecting the Equipment are suitably instructed in its safe and proper use and where necessary hold a current Certificate of Competence or other fully licensed to operate the Equipment and shall provide evidence of the same to A Plus upon request;
 - (e) comply with all occupational health and safety laws relating to the Equipment and its operation;
 - (f) on termination of the hire, deliver the Equipment complete with all parts and accessories, clean and in good order as delivered, fair wear and tear accepted; to A Plus;
 - (g) keep the Equipment in their own possession and control and shall not assign the benefit of the hire contract nor be entitled to lien over the Equipment;
 - (h) not alter or make any additions to the Equipment including but without limitation altering, make any additions to, defacing or erasing any identifying mark, plate or number on or in the Equipment or in any other manner interfere with the Equipment;
 - (i) employ the Equipment solely in its own work and shall not permit the Equipment of any part thereof to be used by any other party for any other work;
 - (j) not exceed the recommended or legal load and capacity limits of the Equipment;
 - (k) not use or carry any illegal, prohibited or dangerous substance in or on the Equipment;
 - (l) not fix any of the Equipment in such a manner as to make it legally a part forming part of any freehold;
 - (m) indemnify and hold harmless A Plus in respect of all claims arising out of the Client's use of the Equipment.
- 11.2 Immediately on request by A Plus the Client will pay:
 - (a) the new list price of any Equipment that is for whatever reason destroyed, written off or not returned to A Plus;
 - (b) all costs incurred in cleaning the Equipment;
 - (c) all costs of repairing any damage caused by the ordinary use of the Equipment up to an amount equal to ten percent (10%) of the new list price of the Equipment;
 - (d) the cost of repairing any damage to the Equipment caused by the negligence of the Client or the Client's agent;
 - (e) the cost of repairing any damage to the Equipment caused by vandalism, or (in A Plus' reasonable opinion) in any way whatsoever other than by the ordinary use of the Equipment by the Client;
 - (f) the cost of fuels and consumables provided by A Plus and used by the Client.
12. **Cancellation**
- 12.1 A Plus may cancel these terms and conditions or cancel delivery of Equipment at any time before the Equipment is delivered by giving written notice. On giving such notice A Plus shall repay to the Client any sums paid in respect of the Price. A Plus shall not be liable for any loss or damage whatever arising from such cancellation.
- 12.2 In the event that the Client cancels delivery of the Equipment the Client shall be liable for any loss incurred by A Plus (including, but not limited to, any loss of profits) up to the time of cancellation.
13. **Default and Consequences of Default**
- 13.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, at the rate of payment, at a rate of one and one half percent (1.5%) per calendar month (and at A Plus' sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 13.2 If the Client owes A Plus any money the Client shall indemnify A Plus from and against all costs and disbursements incurred by A Plus in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, A Plus' collection agency costs, and bank dishonour fees).
- 13.3 Without prejudice to any other remedies A Plus may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms of hire A Plus may repossess the Equipment as per clause 9.2, or suspend or terminate the supply of Equipment to the Client and any of its other obligations under the terms and conditions. A Plus will not be liable to the Client for any loss or damage the Client suffers because A Plus has exercised its rights under this clause.
- 13.4 Without prejudice to A Plus' other remedies at law A Plus shall be entitled to cancel all or any part of any order of the Client which remains unperformed in addition to and without prejudice to any other remedies A Plus may have and all amounts owing to A Plus shall, whether or not due for payment, become immediately payable in the event that:
 - (a) any money payable to A Plus becomes overdue, or in A Plus' opinion the Client will be unable to meet its payments as they fall due;
 - (b) the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
 - (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.
14. **Security and Charge**
- 14.1 In consideration of A Plus agreeing to supply Equipment, the Client charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Client either now or in the future, to secure the performance by the Client of its obligations under these terms and conditions (including, but not limited to, the payment of any money).
- 14.2 The Client indemnifies A Plus from and against all A Plus' costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising A Plus' rights under this clause.
- 14.3 The Client irrevocably appoints A Plus and each director of A Plus as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 14 including, but not limited to, signing any document on the Client's behalf.
15. **Privacy Act 1988**
- 15.1 The Client agrees for A Plus to obtain from a credit reporting agency a credit report containing personal credit information about the Client in relation to credit provided by A Plus.
- 15.2 The Client agrees that A Plus may exchange information about the Client with those credit providers either named as trade referees by the Client or named in a consumer credit report issued by a credit reporting agency for the following purposes:
 - (a) to assess an application by the Client; and/or
 - (b) to notify other credit providers of a default by the Client; and/or
 - (c) to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and
 - (d) to assess the creditworthiness of the Client.
- 15.3 The Client understands that the information exchanged can include anything about the Client's creditworthiness, credit standing, credit history or credit capacity that credit providers are allowed to exchange under the Privacy Act 1988.
- 15.4 The Client consents to A Plus being given a consumer credit report to collect overdue payment on commercial credit (Section 19K(1)(h) Privacy Act 1988).
- 15.5 The Client agrees that personal credit information provided may be used and retained by A Plus for the following purposes (and for other purposes as shall be agreed between the Client and A Plus or required by law from time to time):
 - (a) the provision of Equipment on Hire; and/or
 - (b) the marketing of services by A Plus, its agents or distributors; and/or
 - (c) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Equipment on hire; and/or
 - (d) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or
 - (e) enabling the daily operation of Client's account and/or the collection of amounts outstanding in the Client's account in relation to the hire of the Equipment.
- 15.6 A Plus may give information about the Client to a credit reporting agency for the following purposes:
 - (a) to obtain a consumer credit report about the Client;
 - (b) allow the credit reporting agency to create or maintain a credit information file containing information about the Client.
- 15.7 The information given to the credit reporting agency may include:
 - (a) personal particulars (the Client's name, sex, address, previous addresses, date of birth, name of employer and driver's licence number);
 - (b) details concerning the Client's application for credit or commercial credit and the amount requested;
 - (c) advice that A Plus is a current credit provider to the Client;
 - (d) advice of any overdue accounts, loan repayments, and/or any outstanding monies owing which are overdue by more than sixty (60) days, and for which debt collection action has been started;
 - (e) that the Client's overdue accounts, loan repayments and/or any outstanding monies are no longer overdue in respect of any default that has been rectified;
 - (f) information that, in the opinion of A Plus, the Client has committed a serious credit infringement (that is, fraudulently or shown an intention not to comply with the Client's credit obligations);
 - (g) advice that cheques drawn by the Client for one hundred dollars (\$100) or more, have been dishonoured more than once;
 - (h) that credit provided to the Client by A Plus has been paid or otherwise discharged.
16. **Personal Property Securities Act 2009 ("PPSA")**
- 16.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
- 16.2 Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Equipment that has previously been supplied and that will be supplied in the future by A Plus to the Client.
- 16.3 The Client undertakes to:
 - (a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which A Plus may reasonably require to:
 - (i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
 - (ii) register any other document required to be registered by the PPSA; or
 - (iii) correct a defect in a statement referred to in clause 16.3(a)(i) or 16.3(a)(ii);
 - (b) indemnify, and upon demand reimburse, A Plus for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Equipment charged thereby;
 - (c) not register a financing change statement in respect of a security interest without the prior written consent of A Plus;
 - (d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Equipment in favour of a third party without the prior written consent of A Plus.
- 16.4 A Plus and the Client agree that sections 96, 115 and 125 of the PPSA do not apply to the security interest created by these terms and conditions.
- 16.5 The Client waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- 16.6 The Client waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 16.7 Unless otherwise agreed to in writing by A Plus, the Client waives their right to receive a verification statement in accordance with section 157 of the PPSA.
- 16.8 The Client must unconditionally ratify any actions taken by A Plus under clauses 16.3 to 16.5.
- 16.9 Subject to any express provisions to the contrary nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.
17. **General**
- 17.1 If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 17.2 These terms and conditions and any contract to which they apply shall be governed by the laws of New South Wales and are subject to the jurisdiction of the courts of New South Wales.
- 17.3 A Plus shall be under no liability whatever to the Client for any indirect loss and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by A Plus of these terms and conditions. In the event of any breach of this contract by A Plus the remedies of the Client shall be limited to damages. Under no circumstances shall the liability of A Plus exceed the Price.
- 17.4 The Client shall not be entitled to set off against or deduct from the Price any sums owed or claimed to be owed to the Client by A Plus.
- 17.5 A Plus may license or sub-contract all or any part of its rights and obligations without the Client's consent.
- 17.6 A Plus reserves the right to review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which A Plus notifies the Client of such change. Except where A Plus supplies further Equipment to the Client and the Client accepts such Equipment, the Client shall be under no obligation to accept such changes.
- 17.7 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.
- 17.8 The failure by A Plus to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect A Plus' right to subsequently enforce that provision.
- 17.9