



Komatsu Forklift Australia Pty Ltd
 ABN 71 080 792 730

**COMPLETE THE FOLLOWING AND RETURN TO
 KOMATSU FORKLIFT AUSTRALIA PTY LTD**

ABN 71 080 792 730

Head Office

PO Box 99, Fairfield NSW 2165 Phone: (02) 9728 0900 Fax: (02) 9724 1781

CREDIT APPLICATION

BUSINESS DETAILS

FULL TRADING NAME "Applicant"

Is this Trading Name a Registered Business Name? Yes No

REGISTERED COMPANY NAME

ACN / ARBN ABN

BUSINESS ADDRESS

STATE POSTCODE

BUSINESS PREMISES Owned Leased Mortgaged Rented

NATURE OF BUSINESS DATE BUSINESS ESTABLISHED

BUSINESS STRUCTURE Sole Trader Private Company Public Company Government Authority
 Partnership Co-operative Trust Incorporated Association

PAID UP CAPITAL OF COMPANY (if applicable) \$ NO. OF EMPLOYEES

BANK BSB NO

BRANCH ACCOUNT NO

TRADING HISTORY

ANNUAL TURNOVER \$ Is the most recent Balance Sheet available for review? Yes No

Are assets of Business encumbered? Yes No AMOUNT \$

TO WHOM

Are bad debts insured? Yes No

CONTACT DETAILS

POSTAL ADDRESS (if different to above)

STATE POSTCODE

PHONE FAX EMAIL

CONTACT PERSONS – Accounts PHONE

– Purchasing PHONE

CREDIT REQUIRED

AMOUNT OF MONTHLY CREDIT REQUIRED \$ ACCOUNT TYPE Hire Service Parts

OWNERS' / DIRECTORS' DETAILS

NAME..... NAME

PRIVATE ADDRESS..... PRIVATE ADDRESS

PHONE DATE OF BIRTH..... PHONE..... DATE OF BIRTH

DRIVERS LICENCE No..... DRIVERS LICENCE No

INSOLVENCY

Have any of the directors or proprietors been bankrupt or associated with an insolvent company? Yes No

If Yes, NAME YEAR OF BANKRUPTCY / INSOLVENCY

TRADE REFERENCES (Please provide the names, addresses and phone numbers of four (4) current references.)

NAME	ADDRESS	PHONE
.....
.....
.....
.....

The Applicant applies to Komatsu Forklift Australia Equipment Pty Ltd (ACN 080 792 730) ("Komatsu Forklift Australia") for credit.
 Komatsu Forklift Australia's ABN is 71 080 792 730. The Applicant acknowledges receipt of and accepts the present standard Terms and Conditions and acknowledges that the Terms and Conditions may be changed by Komatsu Forklift Australia from time to time.
 I/We warrant that I am/we are authorised to sign this Credit Application on behalf of the Applicant.

SIGNATURE SIGNATURE

NAME (Block Letters) NAME (Block Letters)

POSITION DATE POSITION..... DATE

PERSONAL GUARANTEE AND INDEMNITY

I/We note that the trading Terms and Conditions have been provided to us by Komatsu Forklift Australia and that I/we have read and understood them. In consideration of Komatsu Forklift Australia supplying goods on credit to the Applicant

I/We (and if more than one, jointly and severally) agree that if the Applicant at any time fails to pay any money due to Komatsu Forklift Australia or fails to perform or observe any term or condition of credit or sale to be performed by the Applicant, I/we will forthwith pay to Komatsu Forklift Australia all money due and payable by the Applicant (or any subsequent owner of the business name of the Applicant) to Komatsu Forklift Australia. No demand by Komatsu Forklift Australia for payment shall be necessary

I/We further agree to indemnify Komatsu Forklift Australia against any loss of money due to Komatsu Forklift Australia by the Applicant under or relating to any sale by or credit granted by Komatsu Forklift Australia to the Applicant (or any subsequent owner of the business name of the Applicant) including expenses and legal costs associated with the collection of outstanding monies and including any loss suffered by Komatsu Forklift Australia as a result of the Applicant's failure to perform or observe any term or condition of credit or sale.

I/We (and if more than one, jointly and severally) agree that this Guarantee and Indemnity is a continuing Guarantee and Indemnity and will not be invalidated, released or discharged by any event which would or might so invalidate, release or discharge the Guarantee and Indemnity, including (but not limited to) the giving of time, the variation of the terms and conditions of credit or sale, the alteration of the composition of the Applicant or the release of the Applicant or any co-guarantor. I/We understand this Guarantee and Indemnity binds me/us personally.

SIGNATURE SIGNATURE

NAME (Block Letters) NAME (Block Letters)

WITNESS SIGNATURE WITNESS SIGNATURE

WITNESS NAME (Block Letters) DATE WITNESS NAME (Block Letters) DATE

OFFICE USE ONLY	DEBTOR'S ACCOUNT NUMBER	APPROVED							
DATE LETTER SENT	<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> </tr> </table>							

TERMS AND CONDITIONS

1. General

The Agreement between Komatsu Forklift Australia Pty Ltd ACN 080 792 730 ("Komatsu Forklift Australia") and the Applicant referred to in the Credit Application ("Customer") are those set out in these Terms and Conditions as amended from time to time, those incorporated by reference in clause 16 of this Agreement and those, if any, which are implied and which cannot be excluded by law ("Terms"). Any contractual terms of the Customer (whether upon the Customer's order or elsewhere) which are contrary to or inconsistent with these Terms shall not apply nor shall they constitute a counter-offer.

2. Services and Goods

At the Customer's request, Komatsu Forklift Australia shall supply the following services and/or goods on the terms set out in these Terms:

- Hire of materials handling equipment ("Hire");
- Servicing and/or repairs ("Servicing"); and/or
- Sale of parts, equipment and/or other products ("Sale").

3. Acceptance of Terms and Pricing

3.1 The Customer shall be deemed to have accepted these Terms and to have agreed that they shall apply to the exclusion of all others in the following circumstances:

- 3.1.1 In respect of a Hire, where the equipment hired is released to or collected by the Customer;
- 3.1.2 In respect of Servicing, where the vehicle(s) or equipment to be serviced is placed under the care and/or control of Komatsu Forklift Australia; and
- 3.1.3 In respect of a Sale, where the customer receives delivery of the goods.

3.2 The prices quoted by Komatsu Forklift Australia are calculated on minimum wage rates, average hours of workmen employed in executing the Customer's order and the Australian dollar selling rate at the date of quotation. If, after the date of quotation, rates of wages increase, standard hours of workmen change, the Australian dollar selling rate changes or there is an increase in the price of materials used, or by reason of any other cause beyond Komatsu Forklift Australia's control, it may increase the price by an amount equivalent to the additional cost it incurs. All prices will be charged at the price ruling at the date of the invoice rendered for the Hire, Servicing or Sale. The Customer shall also be required to pay the expenses of and incidental to putting any equipment in a deliverable state and the costs of any delivery. Any Goods and Services Tax within the meaning of the A New Tax System (Goods and Services Tax) Act 1999 ("GST") or other government imposts (not including income tax) shall be payable by the Customer.

3.3 Komatsu Forklift Australia may at its discretion correct any clerical, mathematical, and/or typographical errors and omissions in any order placed by the Customer.

4. Credit Terms

4.1 Payment is due on or prior to fourteen (14) days from the date of invoice rendered unless otherwise stated in writing by Komatsu Forklift Australia. Komatsu Forklift Australia may charge liquidated damages at a rate equivalent to two percent (2%) in excess of the rate of interest charged by Komatsu Forklift Australia's principal bank for overdraft accommodation for amounts in excess of \$100,000 if payment is not received by the due date.

4.2 The Customer is liable for all reasonable expenses (including contingent expenses such as debt collection commission) and legal costs (on a solicitor/own client basis) incurred by Komatsu Forklift Australia for enforcement of obligations and recovery of monies due from the Customer to Komatsu Forklift Australia.

5. Delivery & Supply

5.1 Any times quoted for delivery and/or supply are estimates only and Komatsu Forklift Australia shall not be liable for loss, injury or damage of any kind (including consequential loss) for any failure or delay in delivery/supply from any causes including but not limited to fire, flood, strike, judicial or government decree, judicial or governmental

proceedings, equipment or parts shortage or the requirements of other customers. The Customer shall not be relieved of any obligation to accept or pay for goods or services, by reason of any delay in delivery/supply or dispatch. Komatsu Forklift Australia reserves the right to stop supply at any time if the Customer fails to comply with the Terms.

5.2 All deliveries are to be collected from Komatsu Forklift Australia's premises unless otherwise agreed. Where delivery is to take place elsewhere, Komatsu Forklift Australia accepts no responsibility for loss or damage to any goods or equipment arising in or during transit through any cause whatsoever.

6. Property

Property remains with Komatsu Forklift Australia until full payment has been made for all goods and services, and any other sums in any way outstanding from the Customer to Komatsu Forklift Australia from time to time:

6.1 All sums outstanding become immediately due and payable by the Customer to Komatsu Forklift Australia if the Customer makes default in paying any other sums due to Komatsu Forklift Australia, becomes bankrupt, or commits any act of bankruptcy, compounds with its creditors, has judgment entered against it in any court or, being a company, has a provisional liquidator, liquidator, receiver, receiver manager or administrator appointed, notwithstanding the provisions of any other clause in these Terms.

6.2 In respect of any Sale:

6.2.1 The property in any goods sold shall not pass to the Customer and the Customer shall hold the goods as Bailee for Komatsu Forklift Australia (returning the same to Komatsu Forklift Australia on request). The goods shall nevertheless be at the risk of the Customer from the time of delivery/supply and the Customer must insure the goods from the time of delivery/supply.

6.2.2 The Customer is only authorised to sell the goods (or any portion of them) to third parties as the fiduciary agent of Komatsu Forklift Australia provided that there shall be no right to bind Komatsu Forklift Australia to any liability to such third party by contract or otherwise. All payments (direct or indirect) received from such third parties by the Customer for the goods (or any portion of them) shall be held on trust for Komatsu Forklift Australia pursuant to the fiduciary relationship.

6.2.3 In the event that the Customer incorporates or transforms the goods (or any portion of them) into any other goods or products produced or used by the Customer (or a third party), then the Customer must hold a proportion of any payment ("relevant proportion") received by the Customer for such goods or products on trust for Komatsu Forklift Australia. The Customer expressly acknowledges that the relevant proportion shall be equal to the dollar value of the goods incorporated or transformed and the Customer further acknowledges that any part payment (not exceeding the relevant proportion) received by the Customer for such goods or products is received as payment first of the relevant proportion.

6.3 In respect of Servicing, Komatsu Forklift Australia shall have a lien (in addition to and without derogation to any common law lien) over the vehicles or equipment serviced.

6.4 Komatsu Forklift Australia is irrevocably authorised to enter any premises where any goods it has sold or equipment it has hired to the customer are kept (or in Komatsu Forklift Australia's reasonable opinion believed to be kept) without liability for trespass or any resulting damage, and to use the name of the Customer and to act on its behalf, if necessary, to recover possession of those goods and the equipment

7. Returns, Cancellations and Claims

In respect of any Sale:

7.1 The Customer shall not return any goods to Komatsu Forklift Australia without obtaining prior authorisation from Komatsu Forklift Australia. Unauthorised returns will not be accepted. No returns will be accepted unless a copy of the relevant invoice is enclosed

with the returned goods. A list of the goods returned including product descriptions, quantity, date of return and the Customer's name and address must also be enclosed. Freight charges must be paid by the Customer. All goods must be returned in the original packaging and the Customer shall be responsible for all damage incurred during return shipment. A credit note will be issued by Komatsu Forklift Australia only after the goods are returned and accepted by Komatsu Forklift Australia. The Customer shall not deduct the amount of any anticipated credit from any payment due to Komatsu Forklift Australia but must await receipt of a credit note.

- 7.2 No cancellations or partial cancellation of an order by the Customer shall be accepted by Komatsu Forklift Australia unless it has first consented in writing to such cancellation or partial cancellation and unless a cancellation charge, as determined by Komatsu Forklift Australia, has been paid. The Customer will indemnify Komatsu Forklift Australia against all loss, without limitation. Cancellation will not be accepted on goods that are not regular stock which are in the process of manufacture or ready for shipment.
- 7.3 All complaints, claims, or notification of lost goods, incomplete goods, or goods that do not comply with the Customer's purchase order must be submitted by the Customer to Komatsu Forklift Australia in writing within seven (7) business days of the date of the invoice rendered for the supply of the goods. Otherwise, the Customer shall be deemed to have accepted the goods and shall not refuse to pay for the goods on the basis that they were lost, incomplete, or do not comply with the Customer's purchase order.

8. Privacy Act 1988 ("Privacy Act")

To enable Komatsu Forklift Australia to assess the Customer's application for credit, the Customer authorises Komatsu Forklift Australia

- 8.1 To obtain from a credit reporting agency a consumer or commercial credit report containing personal information about the Customer and its guarantors pursuant to Section 18K(1) of the Privacy Act;
- 8.2 To obtain a report from a credit reporting agency and other information in relation to the Customer's commercial credit activities; and
- 8.3 To give to a credit reporting agency information including identity particulars and application details

AND in accordance with Section 18N(1)(b) of the Privacy Act the Customer authorises Komatsu Forklift Australia to give to and obtain from any credit provider named in the accompanying credit application and credit providers that may be named in a credit report issued by a credit reporting agency information about the Customer's credit arrangements. The Customer understands that this information can include any information about its credit worthiness, credit standing, credit history or credit capacity that credit providers are allowed to give or receive from each other under the Privacy Act.

The Customer understands that information can be used for the purposes of assessing its application for credit (Section 18L(4) Privacy Act), assisting it to avoid defaulting on its credit obligations, assessing its credit worthiness and notifying other credit providers and credit reporting agencies of a default by it under these Terms.

9. Notification

The Customer must notify Komatsu Forklift Australia in writing within seven (7) days of:

- 9.1 Any alteration of the name or ownership of the Customer.
- 9.2 The issue of any legal proceedings against the Customer.
- 9.3 The appointment of any provisional liquidator, liquidator, receiver, receiver manager or administrator to the Customer.
- 9.4 Any change in the ownership of the business name of the Customer. The Customer agrees that it shall be liable to Komatsu Forklift Australia for all goods and services supplied to the new owner by Komatsu Forklift Australia until notice of any such change is received.

10. Warranties

Subject to any warranties provided under clause 16, no warranties except those implied and which cannot be excluded by law are given by Komatsu Forklift Australia in respect of goods or services supplied. Where it is lawful to do so, the liability of Komatsu Forklift Australia for a breach of a condition or warranty is limited to the repair or replacement of the goods, the supply of equivalent goods, the payment of the cost of repairing or replacing the goods or acquiring equivalent goods, the supplying of the services again or the payment of the cost of having the services supplied again, as determined by Komatsu Forklift Australia.

11. Equitable Charge

The Customer as beneficial owner and/or registered proprietor now charges in favour of Komatsu Forklift Australia all of the Customer's estate and interest in any real property (including but not limited to any applicable land named or described as the Customer's Street Address in the Credit Application) ("Property") to secure payment of invoices rendered by Komatsu Forklift Australia to the Customer for the delivery and/or supply of the goods and services including interest payable on these invoices and costs (including legal costs on a solicitor/client basis) incurred by Komatsu Forklift Australia to prepare and lodge a Caveat against the Property and to remove the Caveat.

12. Inspection of Repair Work

Subject to any specific requirements incorporated under clause 16, the Customer may inspect any Servicing work being performed for it by Komatsu Forklift Australia at Komatsu Forklift Australia's premises during normal business hours by appointment upon reasonable notice. Komatsu Forklift Australia accepts no responsibility for any damage sustained to any vehicles or equipment of the Customer while in Komatsu Forklift Australia's possession, care or control.

13. Loss and Indemnity

Subject to clause 10 above, in respect of any Hire of or Sale of equipment:

- 13.1 Komatsu Forklift Australia is not liable for any loss (including injury damage or delay) or for any consequences of any loss including loss caused by malfunction or defect in or failure of the equipment hired or sold. Further, Komatsu Forklift Australia will not under any circumstances be liable for any consequential or indirect loss or damage howsoever caused.
- 13.2 Komatsu Forklift Australia shall not be liable, and the Customer shall indemnify and hold Komatsu Forklift Australia harmless against any liability, loss, expense or demand by or from any person arising from the use, operation (other than by Komatsu Forklift Australia) or possession of any equipment hired or sold including negligence or misuse by the Customer or any person associated with the Customer.

14. Authority

The Customer warrants it has the authority to enter into any order for Hire, Servicing or Sale and without limiting the foregoing, the Customer warrants it has the authority to authorise repairs and servicing on any vehicles or equipment it supplies for Servicing to Komatsu Forklift Australia.

15. Additional Conditions Applying to Second-Hand Equipment

In respect of any Sale of second-hand equipment, the following additional terms shall apply: The Customer admits and acknowledges that:

- 15.1 it has had the opportunity to inspect the equipment;
- 15.2 the equipment is sold with any defects and faults; and
- 15.3 Komatsu Forklift Australia shall not be responsible for any loss or damage to the equipment or caused by the equipment.

16. Additional Conditions for Hire/Service

Where the Customer places an order for a Hire/Service, it may be required to enter into a separate hire/service agreement which may include (but is not limited to) all or any of the following:

- Rental Servicing Contract
- Rental and Servicing Terms
- Rental and Servicing Special Terms
- Cover Document
- Service and Rate Specification
- Performance Standards

To the extent of any inconsistency between these Terms and the terms and conditions of the separate hire/service agreement, any term that is more favourable or beneficial to Komatsu Forklift Australia shall prevail over any term that is less favourable or beneficial.

17. Legal Construction

Notwithstanding that any provision of the Terms may prove to be illegal or unenforceable pursuant to any statute or rule of law or for any other reason that provision is deemed omitted without affecting the legality of the remaining provisions and the remaining provisions of the Terms shall continue in full force and effect.