

Mesh & Masonry Supplies (Ballarat) Pty Ltd

Page 1 of 5

CREDIT APPLICATION FORM

1. COMPANY NAME
- TRADING NAME
- A.B.N A.C.N
- STREET ADDRESS
- POSTCODE
- POSTAL ADDRESS
- POSTCODE
- DELIVERY ADDRESS
- POSTCODE
- PHONE FAX MOBILE
- EMAIL
2. PARTNERSHIP SOLE TRADER / INDIVIDUAL PRIVATE COMPANY TRUST PUBLIC COMPANY
(circle one) OTHER (PLEASE SPECIFY).....
3. Contact Person for Payment of the Account
- NAME
- POSITION TELEPHONE
- EMAIL:
4. Purchase Order Number Required: YES NO (circle one)
5. Our invoices are emailed. Please supply an email address and preference for delivery frequency:
- DAILY WEEKLY MONTHLY (circle one)
6. What is the Primary Purpose of your Business?
- Annual Turnover ? (last financial year).....
- Date the Business Started: Credit required per month \$.....
7. Has the customer or any associated entity, body or person traded with the Mesh & Masonry in the past? If
yes please provide details
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8. Has the customer or any associated entity, body, of person entered a Part X, bankruptcy, administration, deed of Company arrangement, liquidation or receivership in the past? Please provide details.

.....
.....

9. SOLE TRADERS / ALL DIRECTORS / ALL PARTNERS IN THE BUSINESS – personal contact details

a) FULL NAME

HOME ADDRESS

..... POSTCODE

HOME PHONE: MOBILE

PERSONAL EMAIL

D.O.B DRIVER'S LICENCE NO.

b) FULL NAME

HOME ADDRESS

..... POSTCODE

HOME PHONE: MOBILE

PERSONAL EMAIL

D.O.B DRIVER'S LICENCE NO.

10. CREDIT REFERENCES (Major Suppliers that you have credit terms with. No personal referees)

a) NAME PH: EMAIL:

b) NAME PH: EMAIL:

c) NAME PH: EMAIL:

11. CONDITIONS OF SALE & PERSONAL GUARANTEE

1. I have the authority to represent and negotiate the above credit on behalf of the applicant business.
2. I understand the terms of trade are payment within 30 days of the end of the month of purchase, and I agree that the applicant will settle the account within 30 days of the Statement Date.
3. I acknowledge receipt of and agree to comply with Mesh & Masonry (Ballarat) Pty Ltd's Conditions of Sale.
4. I acknowledge that credit may be withdrawn or an extension refused without notice in accordance with Mesh& Masonry (Ballarat) Pty Ltd's Conditions of Sale.
5. I agree to notify Mesh& Masonry (Ballarat) Pty Ltd in writing of any change of Ownership, Legal Entity, Address or Telephone Number of the applicant.

6. I declare that the applicant is not in financial difficulty at the present time and is capable of meeting Mesh & Masonry (Ballarat) Pty Ltd's 30 day trading terms.
7. I agree that placing an order with Mesh & Masonry binds the applicant to the Mesh & Masonry (Ballarat) Pty Ltd's Conditions of Sale.
8. I hereby unconditionally and irrevocably guarantee and undertake to indemnify Mesh & Masonry (Ballarat) Pty Ltd against any loss it may suffer in the event that the applicant fails to pay Mesh & Masonry (Ballarat) Pty Ltd including any expenses incurred to recover the debt.
We (I) further agree and hereby charge as a separate and additional obligation under this instrument charge with payment of the monies hereby guaranteed (and where this instrument is executed by more than one person. Jointly and severally charge) as beneficial owner all freehold and leasehold interests in land which I now have or may acquire.
9. I agree to pay Mesh & Masonry Supplies (Ballarat) Pty Ltd interest on Monies due but not paid under Clause 2 above at the rate of the Commonwealth Bank indicator lending rate plus 2% calculated on a daily basis from the due date to the payment date.
10. I authorise Mesh & Masonry Supplies (Ballarat) Pty Ltd to conduct credit checks on myself and the applicant through credit reference authorities in the course of assessing this application and from time to time as required.
11. I certify that I am authorised to sign this credit application form on behalf of the applicant and that the information is true and correct to the best of my knowledge.
12. Please ensure you have read and understood these terms & conditions and guarantee requirements before signing. **All Owners/Directors must complete.**
Ensure that the signatures of the Owner/Directors are witnessed in section 13 below.

1. **OWNER/DIRECTOR** (print name)
..... (signature) **DATE**.....

2. **OWNER/DIRECTOR** (print name)
..... (signature) **DATE**.....

(If more than 2 Owners/Directors please submit signatures on **separate** page of this application form)

13. **WITNESS** (print name)
..... (address)
..... (signature) **DATE**.....

CONDITIONS OF SALE

1. **INTERPRETATION**
 "Mesh & Masonry" means Mesh & Masonry Supplies (Ballarat) Pty Ltd
 "Buyer" means the person, firm, company or entity buying the Goods from Mesh & Masonry
 "Goods" means the Goods being purchased by the Buyer from Mesh & Masonry
 "Contract" means the Contract between Mesh & Masonry and the Buyer for the purchase of the Goods
 "Date of Contract" means the date of acceptance of the order by Mesh & Masonry
 "Contract Price" means the price of the Goods as agreed between Mesh & Masonry and the Buyer, subject to any variation in accordance with Clause 3 hereof
 Headings are used as a matter of convenience only and shall not affect the interpretation of these conditions.
2. **APPLICATION**
 All Contracts for the supply of Goods by Mesh & Masonry are governed by these Conditions of Sale and any special conditions that may be notified in writing to a Buyer relating to a particular contract.

3. **PRICE**

The Contract Price is based upon the rates and conditions on the date of the Contract. Mesh & Masonry reserves the right to vary the price in accordance with any variation in these rates and conditions, including exchange rates, costs of labour, materials, transport freight and insurance's, Australian duties, or any other expenses incurred or arising due to circumstances beyond the control of Mesh & Masonry between the date of the contract and the date of delivery.

All Contract Prices, unless otherwise stated, are exclusive of sales tax, goods and services tax, or any other taxes, which if payable are to the Buyer's account and are payable on the date on which the price is payable.

4. **PAYMENT**

Payment must be made in the manner and on the date as shown on Mesh & Masonry invoices.

If payment in full is not paid to Mesh & Masonry by the due date, then;

(a) Mesh & Masonry reserves the right to charge the Buyer interest on the outstanding monies at a rate equal to 2% above the Commonwealth Bank's indicator lending rate ruling from time to time, calculated on a daily basis from the date payment is due until the date payment is received by Mesh & Masonry.

(b) MESH& Masonry reserves the right to suspend or cancel further deliveries of Goods to the Buyer;

Provided that this is without prejudice to Mesh & Masonry's other rights or remedies in respect of the Buyer's default in failing to make payment on the due date.

5. **DELIVERY**

5.1 Delivery will be made at the place indicated in the Contract or if no place is indicated in the Contract, delivery will be made at the Buyer's premises.

5.2 If the Buyer fails or refuses to accept delivery, the Goods will be deemed to have been delivered when Mesh & Masonry was willing to deliver them and the Buyer will be required to pay for the Goods on the basis that the delivery has been effected..

5.3 All claims for errors or short delivery or damaged goods must be made in writing within seven days of receipt.

6. **PROPERTY**

6.1 Until the Contract Price and all other monies due and payable to Mesh & Masonry by the Buyer (whether under the Contract or otherwise) have been paid in full:

(a) property in and title to the goods shall not pass from Mesh & Masonry; and

6.2 For so long as property in any of the Goods is retained by Mesh & Masonry the Buyer shall (unless Mesh & Masonry gives written permission to the Buyer otherwise) store separately the Goods in respect of which property is retained by Mesh & Masonry and clearly identify such Goods as the property of Mesh & Masonry.

6.3 If the buyer fails to pay for Goods on due date, or commits an act of bankruptcy, or compounds or arranged with all or any number of creditors, or being a company has a receiver and manager or provisional liquidator appointed or goes into voluntary administration or liquidation or otherwise, Mesh & Masonry will be entitled to recover possession of all Goods supplied.

6.4 If Mesh & Masonry gives the buyer permission to combine the Goods with other goods of the Buyer and it is no longer possible to identify Mesh & Masonry's goods, title to the combined product shall vest in Mesh & Masonry until the Contract price and all other monies payable to Mesh & Masonry by the Buyer (whether under the Contract or otherwise) have been paid in full. Until such time, that part of the proceeds of sale or disposal of the combined product received by the Buyer which represents the price of the Goods is the property of Mesh & Masonry and is to be set aside in a separate account and held on trust by the Buyer for Mesh & Masonry.

6.5 Any permission given by Mesh & Masonry to the Buyer pursuant to Clause 6.4 to combine the Goods with its own and sell the combined product will automatically be terminated upon;

(a) the appointment of any administrator, receiver and a manager or a provisional liquidator to any of the assets or undertakings of the Buyer.

(b) a resolution being passed or an application being filled to wind up the Buyer; or

(c) if, the buyer is a natural person, the Buyer being declared bankrupt or the buyer entering into a composition or arrangement with his creditors generally or taking advantage of any statute for the relief of insolvent debtors.

7. **APPLICATION OF THE PPSA**

7.1 In this clause 8, of the PPSA Act, PPSA means the *Personal Property Security Act 2009*. If a term used in this clause has a particular meaning in the PPSA, it has the same meaning in this clause.

7.2 This clause 8 applies to the extent that Mesh & Masonry's interest in any Goods is a security interest.

7.3 The goods are building materials, tools and other items stocked by Mesh & Masonry.

7.4 The Purchaser acknowledges and agrees that Mesh & Masonry may apply to register a security interest in the Goods at any time before or after delivery of the Goods. The Purchaser waives its right under section 157 of the PPSA to receive notice of any verification of the registration.

7.5 Mesh & Masonry can apply amounts it receives from the Purchaser towards amounts owing to it in such order as Mesh & Masonry chooses.

7.6 If the Purchaser defaults in the performance of any obligation owed to Mesh & Masonry under these conditions or any other agreement for Mesh & Masonry to supply Goods to the Purchaser, Mesh & Masonry may enforce its security interest in any Goods, by exercising all or any of its rights under these Conditions, or the PPSA. To the maximum extent permitted by law, The Purchaser and Mesh & Masonry agree that the following provisions of the PPSA do not apply to the enforcement by Mesh & Masonry of its security interest in the Goods: sections 95, 118, 121(4), 125, 130, 132(3)(d), 132(4), 135, 142 and 143.

7.7 The Purchaser and Mesh & Masonry agree not to disclose information of the kind mentioned in section 275(1) of the PPSA, except in circumstances required by sections 275(7)(b)-(e) of the PPSA

7.8 The Purchaser must promptly do anything required by Mesh & Masonry to ensure that Mesh & Masonry's security interest is a perfected security interest and has priority over all other security interests in the Goods.

7.9 Nothing in this Clause 8 is limited by any other provision of these Conditions or any other agreement between the parties.

8. FAILURE TO PERFORM

8.1 If at any time for delivery of the Goods or completion of the Contract or any part thereof is stated in the Contract, such time will be approximately only and must be of the essence of the Contract.

8.2 Mesh & Masonry will not be liable for failure to deliver the Goods or for any delay in delivery of the Goods where such failure or delays occasioned by war or civil disturbance, strike, lockout, fire, acts of God, shortage or unavailability of raw materials, labor, or power, or any other circumstances whatsoever beyond Mesh & Masonry's reasonable control.

8.3 The Buyer is not to be relieved of any liability to accept or pay in full for Goods by reason of any delay in delivery irrespective of whether such delays are caused by an act of omission of Mesh & Masonry (whether negligent or not).

9. LIABILITY

9.1 Subject to Clause 8.3, Mesh & Masonry shall not be liable for any loss of profits or any consequential, indirect or special loss, damage or injury of any kind whatsoever suffered by the Buyer arising directly or indirectly from any breach of Mesh & Masonry's obligations arising under or in connection with the Contract or from any cancellation of the Contract or from any negligence, misrepresentation or other act or omission on the part of Mesh & Masonry, its servants, agents, or contractors and Mesh & Masonry will not be liable for any loss, damage or injury caused to the Buyer's servants, agents, contractors, customers, visitors, tenants, trespassers or other persons whomsoever (whether similar to the foregoing or not) arising as aforesaid. The Buyer shall indemnify Mesh & Masonry against any claim by any of the foregoing persons in respect of any loss.

9.2 Subject to Clause 9.4 notwithstanding anything herein before contained in this clause or contained elsewhere in the Contract, the liability of Mesh & Masonry whether in Contract or pursuant to any cancellation of the Contract or in tort or non-excludable statutory conditions, warranties or obligations of the kind referred to in Clause 9.4 or otherwise whatsoever, in respect of all claims for loss, damage or injury arising from breach of any of Mesh & Masonry's obligations arising under or in connection with the contract, from any cancellation of the Contract or from any misrepresentation or other act or omission on the part of Mesh & Masonry, its servants, agents or contractors shall (to the extent permitted by laws) be limited at the option of Mesh & Masonry to:

- (a) Replacing the Goods;
- (b) Obtaining equivalent Goods; or
- (c) Having the Goods repaired.

9.3 Subject to Clause 9.4 the extent permitted by law, all warranties, conditions, liabilities or representations in relation to the Goods of this Contract express or which might, but for this Clause, be implied by law or otherwise are hereby expressly excluded.

9.4 Mesh & Masonry acknowledges that the Trade Practices Act 1974 (Commonwealth) and other statutes, rules or regulations for the time being in force in Australia may imply certain conditions and warranties or impose obligations on Mesh & Masonry which condition, warranties and obligations cannot or cannot except to a limited extent, be excluded, restricted or modified by the provisions of this clause.

10. ADVICE AND INFORMATION

The Buyer is not entitled to rely upon any information which may be provided by Mesh & Masonry, its servants, agents or contractors. The Buyer should satisfy itself as to the accuracy of such information.

11. CONTRACT

The item contained in Mesh & Masonry's Order of Acknowledgment together with these Conditions of Sale shall be the Conditions of the Contract. In the case of conflict between an order submitted by the Buyer and Mesh & Masonry's Order of Acknowledgement, and these Conditions of Sale, Mesh & Masonry's Order of Acknowledgement and these Conditions of Sale shall prevail. No agent or representative of Mesh & Masonry is authorized to make any representations, warranties, conditions or agreement not expressly confirmed by Mesh & Masonry in writing, and Mesh & Masonry is not in any way bound by any such unauthorized statements, nor can any such statements be taken to form a Contract or part of a Contract with Mesh & Masonry collateral to the Contract.

12. WAIVER

All the original rights, powers, exemptions and remedies of Mesh & Masonry shall remain in full force notwithstanding any neglect, forbearance or delay in the enforcement thereof. Mesh & Masonry shall not be deemed to have waived any conditions unless such waiver shall be in writing under the signature of a Director or the Secretary of Mesh & Masonry any such waiver, unless the contrary shall be expressed stated, shall apply to an operate only in a particular transaction, dealing or matter.

13. ASSIGNMENT

The Buyer shall not assign all or any of his rights or obligations under the Contract without the prior written consent of Mesh & Masonry.

14. JURISDICTION

This agreement shall be governed by and construed in accordance with the laws from time to time in force in Victoria and the parties hereto irrevocably submit to the non-exclusive jurisdiction of the Courts of that State and any Court competent to hear appeals there from.

15. SEVERABILITY

If any provision of this Contract is or becomes for any reason wholly or partly void, invalid or unenforceable such provision shall, to the extent of the voidance, invalidity or unenforceability be severed from this Contract.