

## CREDIT ACCOUNT APPLICATION

To apply for a Credit Account with Yousta Pty Ltd, please read our Terms and Conditions of Sale (pages 3-5), complete this Credit Account Application (page 1) as well as the Acceptance and Guarantee (page 2). Return completed pages 1 and 2 to [service@yousta.com.au](mailto:service@yousta.com.au).

### CUSTOMER DETAILS

Company <sup>or</sup> name: \_\_\_\_\_

Trading as: \_\_\_\_\_

ABN: \_\_\_\_\_ Date of incorporation: \_\_\_\_\_

Website: \_\_\_\_\_ Phone number: \_\_\_\_\_

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

Street address: \_\_\_\_\_

Suburb: \_\_\_\_\_ State: \_\_\_\_\_ Postcode: \_\_\_\_\_

Mailing address: \_\_\_\_\_

Suburb: \_\_\_\_\_ State: \_\_\_\_\_ Postcode: \_\_\_\_\_

#### Primary contact

Contact name: \_\_\_\_\_ Contact job title: \_\_\_\_\_

Contact email: \_\_\_\_\_ Contact phone: \_\_\_\_\_

#### Accounts contact

Contact name: \_\_\_\_\_ Contact job title: \_\_\_\_\_

Contact email: \_\_\_\_\_ Contact phone: \_\_\_\_\_

#### Purchasing contact

Contact name: \_\_\_\_\_ Contact job title: \_\_\_\_\_

Contact email: \_\_\_\_\_ Contact phone: \_\_\_\_\_

### BANK DETAILS

Bank name: \_\_\_\_\_

Address: \_\_\_\_\_

Suburb: \_\_\_\_\_ State: \_\_\_\_\_ Postcode: \_\_\_\_\_

### TRADE REFERENCE #1

Company <sup>or</sup> name: \_\_\_\_\_

Address: \_\_\_\_\_

Suburb: \_\_\_\_\_ State: \_\_\_\_\_ Postcode: \_\_\_\_\_

Contact name: \_\_\_\_\_ Contact job title: \_\_\_\_\_

Contact email: \_\_\_\_\_ Contact phone: \_\_\_\_\_

### TRADE REFERENCE #2

Company <sup>or</sup> name: \_\_\_\_\_

Address: \_\_\_\_\_

Suburb: \_\_\_\_\_ State: \_\_\_\_\_ Postcode: \_\_\_\_\_

Contact name: \_\_\_\_\_ Contact job title: \_\_\_\_\_

Contact email: \_\_\_\_\_ Contact phone: \_\_\_\_\_

### TRADE REFERENCE #3

Company <sup>or</sup> name: \_\_\_\_\_

Address: \_\_\_\_\_

Suburb: \_\_\_\_\_ State: \_\_\_\_\_ Postcode: \_\_\_\_\_

Contact name: \_\_\_\_\_ Contact job title: \_\_\_\_\_

Contact email: \_\_\_\_\_ Contact phone: \_\_\_\_\_

## ACCEPTANCE OF TERMS AND CONDITIONS OF SALE

The Customer hereby applies to open a credit account with Yousta Pty Ltd (Yousta). The Customer:

- a) certifies that the above information is true and correct and that the person or persons signing this application is/are authorised to make this application for credit on the Customer's behalf;
- b) acknowledges that it has read and fully understands the Terms and Conditions of Sale which form part of, and are intended to be read in conjunction with, this application for credit, and agrees to be bound by the Terms and Conditions of Sale; and
- c) authorises the collection, retention, disclosure and use of the Customer's personal information as detailed in the Privacy Disclosure and Consent clause in the Terms and Conditions of Sale.

**Name of the authorised person(s) signing the application:** \_\_\_\_\_

**Position(s) held:** \_\_\_\_\_

**Signature (authorised signatory(ies) only):** \_\_\_\_\_

**Date signed:** \_\_\_\_\_

All electronic communications regarding the set up and use of a credit account are subject to the provisions of the Electronic Transaction Act 1999.

## GUARANTEE

In consideration of Yousta, at my/our request, agreeing to supply the Customer with Goods and/or Services on credit, I/we hereby jointly and severally agree with Yousta as follows:

- I/we hereby guarantee to Yousta the due performance and compliance by the Customer of the Terms and Conditions of Sale including, without limitation, the payment of all amounts payable to Yousta from time to time for the supply of Goods and/or Services to the Customer when they are due, including interest and taxes.
- This guarantee shall be a continuing guarantee to Yousta for all debts whatsoever and whensoever contracted by the Customer with Yousta, in respect of Goods and Services to be supplied to it.
- Yousta may, without notice to me/us at any time and without in any way discharging me/us from liability hereunder, grant time or other indulgence to the Customer and accept payment from the Customer in cash, cheque or by other means and to treat me/us in all respects as though I/we were jointly liable with the Customer to Yousta instead of being merely surety for it.
- Yousta may seek from a credit reporting agency, a credit report containing personal information about me/us to assess whether to accept me/us as guarantor for credit applied for, or provided to, the Customer. I accept the notice of disclosure in Clause 8.2 applies to me/us.
- I/we acknowledge that I/we will receive a valuable commercial benefit as a result of Yousta facilitating the provision of credit terms.
- I/we understand the terms of this guarantee. In particular, I/we understand that if the Customer fails to make any required payments to Yousta, Yousta may recover the amount of these payments from me/us personally.
- I/we certify that I/we have had the opportunity of taking independent legal advice in relation to the meaning and effect of this guarantee.

**Guarantor name:** \_\_\_\_\_

**Witness name:** \_\_\_\_\_

**Guarantor title:** \_\_\_\_\_

**Witness occupation:** \_\_\_\_\_

**Guarantor date of birth:** \_\_\_\_\_

**Witness company:** \_\_\_\_\_

*(for credit check)*

**Guarantor address:** \_\_\_\_\_

**Witness address:** \_\_\_\_\_

**Guarantor signature:** \_\_\_\_\_

**Witness signature:** \_\_\_\_\_

**Date signed:** \_\_\_\_\_

**Date signed:** \_\_\_\_\_

**Guarantor name:** \_\_\_\_\_

**Witness name:** \_\_\_\_\_

**Guarantor title:** \_\_\_\_\_

**Witness occupation:** \_\_\_\_\_

**Guarantor date of birth:** \_\_\_\_\_

**Witness company:** \_\_\_\_\_

*(for credit check)*

**Guarantor address:** \_\_\_\_\_

**Witness address:** \_\_\_\_\_

**Guarantor signature:** \_\_\_\_\_

**Witness signature:** \_\_\_\_\_

**Date signed:** \_\_\_\_\_

**Date signed:** \_\_\_\_\_

## TERMS AND CONDITIONS OF SALE

The term 'Yousta' or 'us' or 'our' or 'we' refers to Yousta Pty Ltd. The term 'you' or 'your' refers to the Customer.

These Terms and Conditions of Sale (**Conditions**) apply to our sale of Goods and Services. Any order placed with Yousta constitutes your agreement to be bound by these Conditions, including any variation of these Conditions. Any additional or different terms you stipulate or state in any communication with us (including any order) are not accepted and will not bind us unless we agree in writing. No sales representative or agent is authorised by us to give any guarantee, warranty or representation in addition to, or contrary to, these Conditions.

Singular words include the plural and vice versa.

A mention of anything after include, includes or including, does not limit what else might be included.

### 1. SALE AND PURCHASE

- 1.1 Your placement of an order with us (**Order**) constitutes an offer by you to purchase Goods from us on these Conditions. The Order is placed when it is submitted to us.
- 1.2 The Order is accepted only when we notify you that we accept your Order. For example, we might notify you that we accept your Order by sending you an email stating this. Delivery of Goods constitutes notice of our acceptance of the Order.
- 1.3 If we accept the Order, a binding contract between you and us will arise on these Conditions (**Contract**). The Contract may be amended only by written agreement between us and you.
- 1.4 Goods and Services are supplied by us only on these Conditions to the exclusion of anything to the contrary in the terms of the Customer's Order, notwithstanding that any such Order is placed on terms that purport to override these Conditions.
- 1.5 Yousta employees and/or contractors are not qualified to advise or make recommendations on what Goods you should select and/or where and how to use them. The selection of Goods is at your discretion and it is up to you to determine which Goods are suitable.
- 1.6 If material safety data sheets (MSDS) and/or technical data sheets (TDS) are required, they are to be requested when your Order is placed. Yousta will then request the documentation from the manufacturer on your behalf and provide this information to you either prior to, or upon, delivery of Goods. Yousta is not responsible for the accuracy of the information provided by the manufacturer in the MSDS and TDS.

### 2. PRICE AND PRICE VARIATION

- 2.1 All prices listed on yousta.com.au (**our website**) and in our collateral (e.g. catalogues and flyers) are in Australian dollars and subject to goods and services tax (GST). GST will be applied at the checkout or when invoiced.
- 2.2 Prices and information relating to Goods displayed on our website and in our collateral are for guidance only, and may not be current or complete and, therefore, under no circumstances should be relied upon without verification with your quoted or contracted price list. We make no representation that the Goods listed on our website or in our collateral are currently available.
- 2.3 Customers with a trade/credit account will be invoiced for Goods and Services after they have placed their order online. Prices invoiced will be based on pricing for that account, not our website prices or prices in our collateral. Note that all account prices are subject to availability and can be withdrawn or varied without notice.
- 2.4 Yousta has the right to impose administrative fees for orders under certain dollar values.

### 3. GOODS AND SERVICES TAX

- 3.1 If Yousta is liable to pay GST on the supply of any Goods or Services to the Customer, the Customer must pay to Yousta an amount equivalent to the GST liability of Yousta at the same time as the consideration is paid for the Goods or Services (unless the consideration for that supply is expressed specifically to be GST inclusive).

### 4. PAYMENT AND SECURITY

- 4.1 Unless you have a trade/credit account with us, all purchases made online, over the phone, or at our shopfront are to be paid in full when the order is placed.
- 4.2 All online payments are processed through PayPal. Yousta does not store any credit card information that is provided to PayPal.
- 4.3 For trade/credit account customers, payment to Yousta for Goods and/or Services is due within 30 calendar days from the end of the month in which you are invoiced for the Goods and/or Services. If you fail to make payment in accordance with this clause, all amounts owing by you to Yousta shall immediately become due and payable. Each outstanding amount shall bear interest at the rate of 10% per annum calculated on a daily basis from the day it falls due until the day it is paid in full, and is compounded monthly.
- 4.4 Yousta reserves the right to impose a surcharge for payments made via credit card. The surcharge will not exceed 3% of the amount due.
- 4.5 We reserve the right to suspend the delivery of further Goods and other Orders if the terms of payment are not strictly adhered to by you.
- 4.6 As security for any amounts owing to Yousta from time to time, the Customer charges all of its legal and equitable interest (both present and future) of whatsoever nature held in any and all real property to Yousta.
- 4.7 Without limiting the generality of the charge in Clause 4.6, the Customer, agrees, on request by Yousta, to execute any documents and do all things reasonably required by Yousta, (including, if a beneficial owner, as beneficial owner under the Conveyancing Act 1919 (NSW) or of any analogous implied term under the applicable governing law) to perfect the charge given in Clause 4.6, including registering a mortgage security over any real property.
- 4.8 The Customer appoints Yousta to be the customer's lawful attorney for the purposes of executing and registering such documents and taking all such steps in that regard. The Customer indemnifies Yousta on a full indemnity basis against all costs and expenses incurred by Yousta in connection with the preparation and registration of any such steps needed to perfect the security or prepare or register the mortgage documents.
- 4.9 The Customer consents unconditionally to Yousta lodging a caveat or caveat noting its interest in any real property.
- 4.10 The Customer agrees to pay all expenses, costs and disbursements (including debt collection agency fees and solicitor's costs) incurred by Yousta in connection with the recovery of overdue amounts and enforcing the charge in Clause 4.6.

### 5. DELIVERY

- 5.1 Yousta offers free same day delivery for in-stock, Sydney metro orders over \$150, that are placed by 7:30am weekdays (excluding public holidays and Christmas closures).
- 5.2 Sydney metro orders under \$150 incur a \$15 delivery fee. Orders placed after 7:30am will be delivered the following weekday.
- 5.3 To confirm which items are in-stock, you must contact Yousta prior to placing your order. Delivery of non-stock items will be made as soon as possible. Yousta will not incur any liability in respect of delayed delivery of Goods.

- 5.4 If you have placed an order online, and we have not delivered the Goods ordered by you for any reason after a fourteen day period (excluding public holidays and Christmas closures), you will be notified and your payment will be refunded.
- 5.5 We will not be responsible nor liable for any part delivery or delay in delivery of the Goods. We will not be in any way responsible or liable for any consequences (direct or indirect) arising from such delay or non-delivery.
- 5.6 Your site contact (to be identified when your Order is placed) will be called when the Yousta delivery driver (the driver) arrives on site to deliver your purchased Goods (usually between 8am and 4pm weekdays). If there is no answer, the driver will leave a message (if possible to do so), wait five (5) minutes and call again. The driver will wait a maximum of ten (10) minutes on site to meet your site contact. Should there be no contact after a ten (10) minute period, the driver will leave with your Goods and will attempt delivery the following weekday. The \$15 standard delivery fee will be charged for each attempt at delivery.
- 5.7 We will be entitled to charge for and recover from you on demand all costs or loss occasioned by:
- failure by you to collect or take delivery of the Goods (as the case may be) as and when agreed to; or
  - delay or interruption to the delivery of Goods caused or contributed to by any act or omission on your behalf.
- 5.8 Any such costs or loss will include (but not be limited to) the cost of storage, labour, transportation and administration costs at our prevailing commercial rates.
- 5.9 You agree to inform Yousta in writing within 30 days of the date of invoice if proof of delivery is required, failing which, Yousta shall not be required to provide such proof.

## 6. RETURN OF GOODS

- 6.1 The Goods come with guarantees under the Australian Consumer Law.
- 6.2 Nothing in these Conditions excludes, restricts or modifies:
- the application of any provision of the Australian Consumer Law to the sale of the Goods; or
  - the exercise by you of a right conferred by such a provision; or
  - any liability of a person for failure by Yousta to comply with a guarantee that applies under the Australian Consumer Law to the sale of the Goods or provision of Services.
- Subject to the above, all conditions and warranties, whether or not implied by law, are excluded from any contract for the sale of the Goods and/or Services. Details of any manufacturer's warranty can be provided upon request.
- 6.3 Except where the Australian Consumer Law permits you to reject the Goods or as otherwise provided in this Clause 6, Yousta will not accept the return of the Goods for credit or any other purpose.
- 6.4 All exchange or return requests must be made within seven (7) days of delivery and should be in writing. All returned Goods must be unused, in original packaging and in a saleable condition. Note that pick-up and restocking fees may apply.
- 6.5 Goods returned to us will not be accepted if they have been tampered with by you or any other person and are not as new or if they are Goods sold on a non-return basis. Such Goods will be returned to you at your expense.
- 6.6 We are unable to refund or exchange the following Goods:
- Sealants and adhesives (due to the risk of heat exposure).
  - Goods cut to a size or altered (e.g. painted or powder coated) at your request.
  - Non-stock items that we have sourced upon your request.
  - Goods purchased in commercial quantities.
- 6.7 Receipt by us or by any of our agents or representatives of any Goods returned other than in accordance with this Clause 6, will not constitute nor be deemed to constitute our acceptance of the return of the Goods for credit or any other purpose.

## 7. TITLE AND RISK

- 7.1 Risk in the Goods will pass to you at the time of delivery in accordance with Clause 5.
- 7.2 Irrespective of the time when risk in the Goods will pass, you hereby acknowledge that the property and title in the Goods will remain with Yousta until you have made payment in full of the purchase price and any other monies owing in respect of the Goods. This reservation of title and ownership is effective whether or not the Goods have been altered from their supplied form, or commingled with other Goods.
- 7.3 The retention of title arrangement described in this clause constitutes the grant of a purchase money security interest by the Customer in favour of Yousta in respect of all present and after-acquired Goods supplied to the Customer by Yousta.
- 7.4 Yousta reserves the right to register a security interest for the purposes of the Personal Property Securities Act, 2009, as amended. You agree to provide Yousta with all such information Yousta requires in order to register a security interest at any time, and to immediately advise Yousta of any changes which may affect Yousta's security interest.

## 8. PRIVACY DISCLOSURE AND CONSENT

- 8.1 In applying for credit, you authorise Yousta to collect, retain and use personal information, including the information supplied on the credit application form for the following purposes:
- Assessing your creditworthiness, this application for credit, or any guarantee given by a guarantor.
  - Delivering Goods and Services as requested.
  - Seeking payment for Goods and Services provided.
  - Disclosing to a third party details of your application and any subsequent dealings you may have with Yousta for the purpose of recovering amounts payable by you.
- 8.2 Under the Privacy Act 1988, Yousta is allowed to give a credit reporting agency personal information about your credit application. The information which may be given to an agency includes:
- Identity particulars.
  - The fact that you have applied for credit and the amount.
  - The fact that Yousta is a current credit provider to you.
  - Payments which become overdue by more than 60 days, and for which debt collection has commenced.
  - Advice that payments are no longer due.
  - Cheques drawn by you which have been dishonoured more than once.
  - In specified circumstances, that in the opinion of Yousta you have committed a serious credit infringement.
  - That credit provided to you by Yousta has been paid for or otherwise discharged.

- 8.3 Yousta is committed to complying with the privacy principles imposed by law in relation to the collection, use and disclosure of information regarding individuals.

## 9. YOUR LIABILITY AND DEFAULT

- 9.1 If you:
- fail to make any payment due under the Contract or commit any other breach of any of your obligations under the Contract; or
  - suffer execution under any judgement; or
  - commit an act of bankruptcy or become insolvent or an insolvent under administration (as defined in section 9 of the Corporations Act 2001); or
  - make any composition or arrangement with any creditor; or
  - being a company, pass a resolution for winding up or have a receiver, receiver and manager or administrator appointed over any of your property or have a winding up application presented against you, or go into liquidation, or are wound up, dissolved or declared insolvent.
- 9.2 Yousta (in addition to any other remedies hereby or by statute conferred) may treat the Contract as terminated and any part of the purchase price then unpaid, together with any other monies owing hereunder, whether or not due under the terms of the Contract, will immediately become due and payable. Any such termination will be without prejudice to any claim or right we may otherwise possess.

## 10. EXCLUSION OF IMPLIED TERMS

- 10.1 The Customer may have the benefit of consumer guarantees under the Australian Consumer Law. Otherwise, to the maximum extent permitted by law, all terms, conditions or warranties that would be implied into Supplier in connection with the supply of any Goods or Services by Yousta under law or statute or custom or international convention are excluded.

## 11. LIMITATION OF LIABILITY UNDER CONSUMER LAW GUARANTEES

- 11.1 Where the Goods or any Services we supply under the Contract are not Goods or Services of a kind ordinarily acquired for personal, domestic or household use or consumption, and the Customer is deemed to be a consumer for the purposes of section 64A of the Australian Consumer Law, then our liability (if any) for failure to comply with a guarantee under the Australian Consumer Law (other than, in respect of the Goods, a guarantee as to title, a guarantee as to undisturbed possession or a guarantee as to undisclosed securities, charges or encumbrances) is limited, so far as the Australian Consumer Law allows and at our option:

- a) in the case of the Goods, to repair or replace the Goods or supply of equivalent Goods (or paying the cost of any of these); or
- b) in the case of any Services supplied by us, to supplying the Services again (or paying the cost of having the Services supplied again).

## 12. LIMITATION OF LIABILITY

- 12.1 To the maximum extent permitted by law and subject to clauses 10 and 11, Yousta's total liability arising out of or in connection with its performance of its obligations pursuant to these Conditions, arising out of or in connection with the supply of specific Goods or Services (including pursuant to or for breach of these Conditions or repudiation thereof, under statute, in equity or for tort, including negligent acts or omissions) is limited as follows:

- a) Yousta shall have no liability to the Customer for any Consequential Loss;
- b) Yousta's total aggregate liability for Loss, however arising, shall not exceed the GST exclusive aggregate price paid by the Customer to Yousta for the specific Goods or Services that gave rise to the Loss in question. The limitations and exclusions in this sub-clause 12.1(b) do not apply to the extent that any Loss is directly attributable to:
  - i. the personal injury or death caused by Yousta's default, breach of these Conditions or negligence; or
  - ii. fraud by Yousta.

- 12.2 Each party must take reasonable steps to mitigate any Loss it suffers or incurs.

## 13. GOVERNING LAW

- 13.1 The Contract will be governed by the law of the State of New South Wales and the parties submit to the non-exclusive jurisdiction of that State.

## 14. NO ASSIGNMENT

- 14.1 You may not assign the Contract unless you have obtained our prior written consent to do so.

## 15. SEVERANCE

- 15.1 If any term of the Contract is found to be invalid or unenforceable, such invalidity or unenforceability will not affect the remainder of the Contract, which will continue in full force and effect.

## 16. NOTICES

- 16.1 All notices under the Contract must be in writing. Notices can be given in person, by post or by email, to an address or number detailed in the Order. If a notice is sent by post, it will be taken to have been received three (3) working days after posting, unless in fact it is received earlier. Any changes to notice details must be notified in writing.

## 17. VARIATION

- 17.1 Yousta reserves the right to change these Conditions at any time, without notice. Any Order placed by you with Yousta constitutes your agreement to be bound by any change to these Conditions.

## 18. CANCELLATION

- 18.1 We reserve the right to immediately suspend or cancel the supply of Goods and Services without further notice where we reasonably suspect that you're in breach of these Conditions. Yousta will not incur any liability in respect of such suspended, cancelled or discontinued supply.

## 19. DEFINITIONS

- 19.1 In these Conditions:

**Consequential Loss** means loss of expected savings, loss of use, loss of opportunity, loss of profit, loss of revenue, increased financing costs, loss arising from delay, or any consequential, special or indirect loss or damage, whether or not the possibility or potential extent of the loss or damage was known or foreseeable, and whether arising from a claim under indemnity, contract, tort (including negligence), statute or otherwise.

**Goods** mean any goods supplied by Yousta from time to time including (but not limited to) abrasives (e.g. grinding discs and sandpaper); blades and cutting knives; cable and pipe support systems (e.g. cable tray, channel, pipe clips, tray connectors); brackets; cleaning materials; drill bits and sockets; electrical and lighting products; fasteners (e.g. anchors, bolts, nails, nuts, rivets, screws, staples and washers); fire collars; packers and backing rod; paint and markers; safety equipment and workwear; sealants and adhesives (e.g. grout, polyurethanes, silicones and tapes); and tools (e.g. hand and power tools).

**Loss** means any expense, cost or damage of any kind and includes Consequential Loss and a fine or penalty imposed by a statutory or other authority.

**Services** mean any services provided by Yousta from time to time including (but not limited to) sourcing, stocking, picking, packing and delivering Goods, and supplying credit.