



Shaw Diesels Ltd
Auckland; 13 Douglas Alexander Parade Street Albany, Auckland, 0632
Christchurch; 11 Bowmaker Crescent, Woodend, Christchurch, 7691
Phone: 09-4147360 Email: accounts@shawdiesels.co.nz Email: sales@shawdiesels.co.nz

Application For Credit Account

Trade Name:			
Legal Name:			
Nature of Organisation :	Individual Sole trader / Company		
Phone Number:			
Postal Address:			
Delivery Address:			
Multiple Branches:			
Company Number:		GST Number:	
Number of Years Trading:			
Contact person name for Sales:			
Sales Email:			
Contact person name for Accounts:			
Accounts Email:			
Accountants Name and Email Address:			
Account Terms Requested:			
Credit Limit Amount Requested:			

Trade References:	(excluding credit cards, fuel suppliers, landlord, power & phone companies)		
Company Name:			
Email:			
Phone Number:			
Company Name:			
Email:			
Phone Number:			
Company Name:			
Email:			
Phone Number:			

Name of person completing form:			
Position:			
I certify that the information is true and correct and that I am authorised to sign this application. In accordance with the privacy act (1993) I authorise any person or company to give information as may be required in response to credit inquiries. I have read and understand the General Terms and Conditions of Trade (overleaf) of Shaw Diesels Ltd which form part of and are intended to be read in conjunction with this Work Authorisation Form and agree to abide by these conditions.			
Signature and Date:			



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Our Terms & Conditions

1. DEFINITIONS 1.1 "Agreement" means the agreement constituted by the "Customer Information Form", these Terms and Condition, an Order accepted by us and any other document that you and we agree in writing to form part of this agreement.
- 1.2 "Order" means (if applicable) a Customer issued purchase order to acquire Works from us.
- 1.3 "PPSA" means Personal Property Securities Act 1999 as amended or substituted from time to time. Unless the context otherwise requires all words and phrases in clause 14 will have the meanings given to them in, or by virtue of, the PPSA.
- 1.4 "Procured Items" means an item that is not in our stock and which has been sourced by us at your request.
- 1.5 "Terms and Conditions" means these terms and conditions as updated and revised by us from time to time in accordance with clause 23.5.
- 1.6 "Us" and "We" means C B Shaw Diesels Limited Distributors Limited. "Our" and "Shaw Diesels Limited" has a corresponding meaning.
- 1.7 "Works" means, as the context requires, any goods, parts or services supplied by us to you from time to time.
- 1.8 "You" and/or "the Customer" means the person or entity or person(s) or entities receiving, or making any application for Works or any person(s) acting with ostensible authority on behalf of that entity or person. "Your" has a corresponding meaning.
2. INTERPRETATION 2.1 A reference to the singular includes the plural and vice versa.
- 2.2 If "You" or "I" is more than one party then those parties have a joint and several liability.
- 2.3 Headings are for convenience only and do not affect the interpretation of any provision.
3. ORDERS AND ACCEPTANCE 3.1 This Agreement will apply to you and Shaw Diesels Limited in relation to our supply to you of the Works, and will come into effect creating a binding contract immediately upon (as applicable and subject to clause 3.2):
 - 3.2 (a) us accepting an Order; or
 - (b) (where an Order does not apply) us supplying the Works to you, and this Agreement will apply to all Works supplied by us to you at any time unless we agree otherwise in writing.
4. DESCRIPTION OF WORKS 4.1 The goods and/or Services are as described on the invoices, quotation, work authorisation or any other work commencement forms provided by the Seller to the Customer.
5. PRICE OF WORKS AND SUPPLY 5.2 Where a quote is provided, Shaw Diesels Limited reserves the right to amend the price quoted by the amount of any reasonable increase in the cost of supply of the Works that is beyond the control of Shaw Diesels Limited between the date of the order and delivery of the Works.
6. PRICE 6.1 A quote for the Works may be provided to you in writing and, unless withdrawn by us, will be valid for thirty (30) days from the date of issue.
- 6.2 Unless otherwise agreed in writing, all freight, insurance, delivery, and travel charges are additional to any price quoted.
- 6.3 GST is payable by you as an additional amount on all prices provided to you.
- 6.4 If no written quote is provided to you in writing, the price of the works will be levied pursuant to our standard charges applying at the time.
7. PAYMENT 7.1 Unless otherwise agreed in writing, payment will be due on the due date expressed on the invoice; or 20th of the month following receipt of our invoice ("the due date") or, if required by us, prior to receipt of the Works.
- 7.2 Failure to pay by the due date constitutes a breach of this contract.
- 7.3 Our invoice is not required to specify each individual part or cost incurred on your behalf.
- 7.4 Payment may be made by cash, direct credit to our bank account or by any other method as agreed to in writing by us.
- 7.5 Payment by direct debit instalment by arrangement in advance.
- 7.6 You warrant and undertake to pay the full amount outstanding to us under this Agreement free of all deductions or rights of set off by the due date.
- 7.7 We may, at our sole discretion, require you to pay a deposit prior to us processing any Order for Works.
- 7.8 Unless otherwise agreed in writing by us you will not be entitled to any retention or withholding of any payments due to us, including any payments, or amounts outstanding to us that are disputed by you.
8. CANCELLATION 8.1 We have the right to cancel any Order for Works which we have accepted if:
 - (a) due to circumstances beyond our control, it would be impractical or unreasonable to fill the Order; or
 - (b) if any information supplied by you is materially incorrect; or
 - (c) if you are in breach of any obligation under this Agreement.
- 8.2 You have the right to cancel any Order for Works which we have accepted if we are in breach of any obligation under this Agreement and have not remedied that breach within a reasonable period of receipt of written notice from you notifying us of the breach.
- 8.3 If you have paid a deposit, and then cancel an Order, we may retain any deposit paid to cover the costs of Works completed or parts ordered prior to the date of cancellation.
- 8.4 If we exercise our right to cancel any Order under clause 8.1, we may accept the return of Works at our sole election, in which case you must pay us our associated costs of accepting return of such Works at the time of return of the Works.
9. DEFAULT 9.1 We may exercise any of the remedies available to us under these Terms and Conditions or otherwise in the event that:
 - (a) a receiver, administrator or manager is appointed over any of your assets or undertakings or it appears an appointment will occur; or
 - (b) you go into voluntary liquidation, amalgamate with another company or acquire your own shares in accordance with the Companies Act 1993; or
 - (c) you suspend payments to your creditors or you make or attempt to make an arrangement or composition or scheme with your creditors; or
 - (d) you become insolvent within the meaning of the Insolvency Act 2006 or the Companies Act 1993.
- 9.2 If full payment for the Works is not made on the due date then, without prejudice to any other remedies available to us, we may:
 - (a) cancel the contract constituted by this Agreement or withhold supply or provision of Works or any further Works;
 - (b) charge interest on any amount outstanding to us on a daily basis at a rate of 3.0% per month compounding during such default ("goods charge") until the amount outstanding is paid to us in full;
 - (c) charge an administration fee on all amounts outstanding to us in addition to any other charges pursuant to this clause; and
 - (d) require you to pay us all costs incurred by us as a result of your default, including but not limited to administration charges, debt collections costs and legal costs on an indemnity or solicitor/client basis.
- 9.3 You acknowledge that the goods charge and administration fee charged by us to you under this clause 9 is a genuine pre-estimate of the loss suffered by us as a result of your failure to make payment of the outstanding amounts on or by the due date.
10. OWNERSHIP, RISK AND DELIVERY 10.1 Risk in the Works is your responsibility from the date of possession or, where the Works are delivered to you, from the time the goods leave Shaw Diesels Limited's premises.
- 10.2 Unless otherwise agreed, you are responsible to arrange and meet all costs of or associated with transportation of all Works. If we are delivering Works to you, we will use our best endeavours to see that deliveries are made by the agreed delivery date, but we are not responsible for any losses arising from delay in delivery. You agree that ownership of the Works will not pass until you have either paid all amounts that are owing to us or you have met all of your obligations to us, whichever is the earlier.
- 10.3 While every care is taken in packing Works, we do not accept responsibility for any of the Works lost or broken in transit.
- 10.4 You hold the benefit of your insurance of the Works on trust for us and must pay to us the proceeds of any insurance in the event the goods are lost, damaged or destroyed and have not been paid in full.
- 10.5 The production of these Terms and Conditions by us will be sufficient evidence of our right to receive the insurance proceeds directly from the insurer without the need for any person dealing with us to make further enquires.
- 10.6 Title in the Work does not pass to you until we have received payment for the Work, and all other amounts owed by you to us for other goods supplied to you, in full and in cleared funds.
- 10.7 While title and property in the Works remains vested in us:
 - (a) you must not sell, dispose or otherwise part with possession of the Works until we are paid for in full however if you sell, dispose or part with possession of the Works then you do so as our fiduciary agent and must hold the proceeds of any such act on trust for us and must pay or deliver the proceeds to us on demand;



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- (b) you will insure the Works against all usual risks and for full replacement value and will hold on trust for us any insurance proceeds received by you for the Works;
(c) you have no right or claim to any interest in the Works to secure any debt or obligation we owe to you;
(d) unless the Works have become fixtures you irrevocably authorise us or our agents to enter any premises where we reasonably believe the Works are kept and recover possession of them;
(e) we may recover possession of any Works in transit whether or not delivery has occurred; (f) you cannot claim any lien over the Works and will not pledge or charge or grant any encumbrance over the Works nor grant nor otherwise give away any interest in the Works.
(g) If any Works become part of another product such that the identity of the Works is lost in the product, the security interest created by this Agreement continues in the product in accordance with the provisions of the PPSA.
- 10.8 We may commence proceedings to recover the price of the Works provided notwithstanding that ownership of the Works has not passed to you.
11. MAINTENANCE AND DEFECTS IN MATERIALS AND/OR WORKS COMPLETED
- 11.1 You must inspect the Works on receipt or completion as the case may be and must within seven (7) days of completion, notify us of any defect.
- 11.2 If you believe the Works are defective in any way, you must give us an opportunity to inspect the Works within a reasonable timeframe to enable us to repair or replace the Works if we consider the Works are defective.
- 11.3 If you fail to comply with this clause then the Works will be presumed to be free from any defects unless there is evidence to the contrary.
- 11.4 If a defect does become noticeable you must notify us as soon as possible and provide us with the first right of repair.
- 11.5 If another company or person undertakes a repair without first providing us with an opportunity to inspect and fix the defect we will not be responsible for any costs associated with the defect and any further guarantee we have provided will be void.
- 11.6 Notwithstanding anything to the contrary, we do not accept any liability for faulty parts sourced from third party suppliers unless the fault arises as a result of our workmanship.
12. ALTERATIONS In the event there are any alterations to any Works by the manufacturer in design or specification, Shaw Diesels Limited shall be entitled to deliver such Works conforming with the altered design or specification in fulfilment of the Order.
13. RETURNS All Works returned are subject to a 20% restocking charge unless otherwise agreed in advance. Returned Works will not be accepted unless made within seven days from the date of invoice and accompanied by the invoice or packing slip. Freight charges are not refundable and transportation charges must be prepaid on Works being returned. Procured Items are not returnable.
14. PROVISION OF WORKS Time will in no case be of the essence in respect to the provision of Works. We will not be responsible for any delay in the provision of Works and you will not be entitled to cancel any Order because of any delay. Any timeframes provided for provision of Works are given in good faith and are not to be treated as a condition of purchase.
15. LIABILITY
- 15.1 You must satisfy yourself that the Works are fit and suitable for the purpose for which they are required.
- 15.2 To the maximum extent permitted by law:
- (a) all warranties and representations in respect of the Works are excluded, including those expressed or implied by law;
(b) we will be under no liability whatsoever to you for any indirect or consequential loss and/or expense (including loss of profit, loss of savings, loss of revenue, loss of opportunity or business disruption) suffered by you in connection with the Works or this Agreement;
(c) you will not be entitled to set off against or deduct any sums owed or claimed to be owed to you by us.
(d) where the Works involve parts, we will not be responsible for any damages resulting from the parts being fitted by an unqualified tradesman or fitted in an untradesman like manner.
(e) we are not liable for any second hand goods supplied to you.
- 15.3 To the maximum extent permissible at law the provisions of the Consumer Guarantees Act 1993 are excluded under these Terms and Conditions. In no circumstances will the provisions of the Consumer Guarantees Act 1993 apply to any Goods acquired or Services rendered for business purposes.
- 15.4 Our liability with respect to all warranties or conditions implied and obligations imported on us by the Contract and Commercial Law Act 2017, the Fair Trading Act 1986 and all other statutes will be fully excluded to the full extent permissible at law, and in the event such liability cannot be excluded will only apply to the minimum extent allowable by law.
16. LEINS All goods delivered to or in our possession, for repair or servicing, are subject to a lien for any sums owing by you to us, for repairs or servicing carried out on the goods. Where we retain a lien over any of your goods and if you are more than three months overdue with any monies owing, we may sell the goods without further notice to you and may repay the amounts owing to us from the sale proceeds, including the expenses of sale.
17. PERSONAL PROPERTIES SECURITIES ACT 1999
- 17.1 By assenting to these Terms and Conditions, you grant us a Security Interest, to secure all outstanding payments, over all Works previously supplied by us to you and overall after acquired Works supplied by us to you (or otherwise supplied under your account) and over all of your present and after-acquired property that we have performed Works on or to or in which Works supplied or financed by us have been attached or incorporated.
- 17.2 You undertake to:
- (a) sign any further documents and/or provide any further information (which information you warrant to be complete, accurate and up-to-date in all respects) which we may reasonably require to enable registration of a financing statement or financing change statement on the Personal Property Securities Register;
(b) not register a financing change statement or a change in demand in respect of the goods (as those terms are defined in the PPSA) without our prior written consent; and
(c) give us not less than 14 days prior written notice of any proposed change in your name and/or any other changes in your details (including but not limited to, changes in your address, facsimile number, trading name or business practice).
- 17.3 Waiver and contracting out:
- (a) to the maximum extent permitted by law, you waive your right to receive a verification statement under section 148 of the PPSA, and you hereby contract out of your rights under the sections referred to in section 107(2) of the PPSA;
(b) you agree that nothing in sections 114(a), 133 and 134 of the PPSA will apply to these Terms and Conditions and, with our agreement, contract out of these sections;
(c) you and we agree that section 109(1) of the PPSA is contracted out of in respect of particular Works if and only for as long as we are not the secured party over all other secured parties in respect of those Works;
(d) you acknowledge and agree that we may do all acts and sign all documents, including the execution of any and all documents as your duly authorised attorney (which appointment is hereby deemed), including the registration of any documents we consider necessary or desirable for the perfection, or enforcement of any security interest we have in any Works.
- 17.4 If part of the Agreement between us and you involves the trade in of goods then you warrant that the goods traded in are free of liens, charges and encumbrances of any kind and that they are owned by you outright.
18. NOTICES Any notices required under these Terms and Conditions must be served pursuant to the Property Law Act 2007 and the Companies Act 1993, or by email, in which case notice is deemed to be given on the day of sending. For the purpose of providing notice via email, our email address is info@shawdiesels.co.nz.
19. INTELLECTUAL PROPERTY
- 19.1 Where we have designed, drawn, written plans or a schedule of Works, the copyright in all such designs, drawings, documents, plans and schedules will remain vested in us and are only used by you at our sole discretion. Under no circumstances may such designs, drawings, documents, plans and schedules be used without our prior written consent.
- 19.2 You warrant that all designs, specifications or instructions given to us by you will not cause us to infringe any patent, registered design or trademark in the course of providing Works to you. You agree to indemnify us against any action taken by a third party against us in the event of any such infringement.
20. DISPUTE RESOLUTION
- 20.1 If a dispute arises between the parties to this contract then either party must send to the other party a notice of dispute in writing which adequately identifies and provides details of the dispute. Within fourteen (14) days after service of such a notice, the parties will meet in good faith to attempt to resolve the dispute.
- 20.2 At any such meeting, each party may be represented by a person having authority to agree to a resolution of the dispute.
- 20.3 If the dispute cannot be resolved after such a meeting, either party may by further notice in writing, refer the matter to an arbitrator.
- 20.4 The arbitration will be by one arbitrator to be agreed upon by the parties and if they should fail to agree within twenty-one (21) days from the date of the further notice then to be appointed by the President for the time being of New Zealand Law Society or that persons nominee.
- 20.5 Any dispute will remain confidential between the parties and their representation.
21. PRIVACY ACT 2020
- 21.1 You authorise us to:



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(a) access, collect, retain and use any information about you (including any overdue fines balance information held by the Ministry of Justice) for the purpose of assessing your creditworthiness or for the purpose of marketing products and services to you;
(b) disclose information about you, whether collected by us from you directly or obtained by us from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by you; and
(c) access, collect, retain, and use any information about you for the purposes of administering customer satisfaction surveys, polls and other events to assess the level of customer satisfaction and to provide you with information relating to catalogues, announcements and technical service bulletins; and
(d) access, collect, retain and use any information about you to enable Shaw Diesels Limited to offer products and services of interest to you.
21 You will have the right to request from us a copy of the information about you retained by us and the right to request us to correct any information about you held by us.

21.2 Our Privacy Statement, as may be updated from time to time by us, applies to you.

22. GENERAL PROVISIONS

22.1 If any provision of these Terms and Conditions is invalid, void, illegal or otherwise unenforceable the remaining provisions will remain valid, and enforceable.

22.2 Unless otherwise provided in writing, these Terms and Conditions will take precedence over any subsequent arrangement, representation or oral agreement.

22.3 These Terms and Conditions will be interpreted in accordance with and governed by the laws of New Zealand and the Courts of New Zealand will have non-exclusive jurisdiction in respect of all matters between us.

22.4 We may license, sub-contract, or assign any rights and obligations under these Terms and Conditions without your consent, including any debt owing to us by you. You must not assign all or any of your rights or obligations under these Terms and Conditions without our written consent.

22.5 We reserve the right to amend these Terms and Conditions at any time and from time to time at our discretion. Such revisions will be effective immediately upon publication on our website, (shawdiesels.co.nz). We recommend you review our website for amendments to these Terms and Conditions each time you use the website and in particular before placing any Order. Any changes to these Terms and Conditions will apply to any Order you place from the effective date of the change. Should we choose to provide you with notice of the amended Terms and Conditions, you agree to receive email notification of the amendments from us or a third party.

22.6 Neither party will be liable for any default due to any act of God, war, terrorism, strike, lock out, industrial action, fire, flood, drought, storm or other event beyond our reasonable control.

22.7 Any error or omission by you or us in these Terms and Conditions will be subject to correction by us.

22.8 Failure by us to enforce any of the terms, conditions and obligations in the Terms and Conditions will not be deemed to be a waiver of such terms, conditions and obligations by us. Waiver of these Terms and Conditions by us will only be effective if given in writing to you by an authorised person. If we waive any of these Terms and Conditions the waiver will not affect our other rights under these Terms and Conditions and any waiver will only apply for the time specified in writing or if no time is specified will apply until we give notice that such right is no longer waived by us.

23. UNSOLICITED ELECTRONIC MESSAGES ACT 2007 You hereby provide your express consent to receiving from us commercial electronic message, in any form pursuant to the Unsolicited Electronic Messages Act 2007.

24. HEALTH AND SAFETY

24.1 In the event that any employee, contractor or agent of Shaw Diesels Limited is required to enter onto any property owned or occupied by you, for the purposes of maintenance, delivery, repair, or inspection you agree to comply with all obligations imposed on you by you as an PCBU under the Health and Safety at Work Act 2015 and shall advise any such employee, contractor or agent of Shaw Diesels Limited of any hazards at the property owned or occupied by you.

Shaw Diesels Terms and Conditions version 2023.09.27.2

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