

BIBTECH / BIBCON TERMS AND CONDITIONS OF SALE AND/OR TERMS OF COMMERCIAL CREDIT ACCOMMODATION

1. General

The only contractual terms which are binding upon the Company are those set further herein, those imposed by the law as hereinafter mentioned and those otherwise agreed to in writing by the Company and all other conditions and warranties (whether introduced by the Applicant or otherwise) and whether expressed or implied and all representations, statements and obligations which would otherwise be binding upon the Company, are to the extent permitted by law, hereby expressly excluded and negated. Unless otherwise specified in writing by the company, all contracts shall be governed by the law of the Victoria. Upon the approval of this application for credit for the supply of goods and services, the Applicant hereby agrees with the Company:-

- a) To pay for all goods supplied to the Applicant by the Company within 30 days from the date of invoice;
- b) That the Company may, in the event that the condition in subclause a) above are not complied with or the Applicant otherwise fails to comply with its obligations to the Company in any respect:-The only contractual terms which are binding upon the Company are those set further herein, those imposed by the law as hereinafter mentioned and those otherwise agreed to in writing by the Company and all other conditions and warranties (whether introduced by the Applicant or otherwise) and whether expressed or implied and all representations, statements and obligations which would otherwise be binding upon the Company, are to the extent permitted by law, hereby expressly excluded and negated. Unless otherwise specified in writing by the company, all contracts shall be governed by the law of the Victoria.
 - a. Revoke the credit accommodation and require any further transactions by the Applicant to be on a cash - before - delivery basis;
 - b. Require that all amounts owing to the Company for any reason whatsoever become immediately due and payable without deduction or demand.

2. Guarantee and Indemnity

If the Applicant is a proprietary limited company, the Company may, at its discretion, require that the Directors of the Applicant provide a guarantee and indemnity in the form required by the Company. The Company reserves the right to require a guarantee and indemnity to be given by any person in any other circumstances.

3. Title

Notwithstanding the passing of risk, all goods delivered by the Company to the Applicant, remain the property of the Company until all goods supplied by the Company to the Applicant have been paid for in full. Until that time, the Applicant may sell the goods in the ordinary course of its business as an agent for the Company, and the proceeds shall be held in trust for and as the property of the Company. Prior to any such sale, the Applicant shall hold possession of the goods for and on behalf and as bailee for the Company and shall return the goods to the Company on demand. The Applicant shall wherever possible separately store the goods until title in them has passed.

The Company will be entitled to enter the premises of the Applicant at any time to recover possession of the goods until payment in full has been made. It is agreed between the Company and the Applicant that where the Company enters the premises of the Applicant to take possession of the goods and if it is not possible to otherwise identify the ownership of the goods in the possession of the Applicant, the goods will be treated as though they were sold by the Applicant in the same sequence

as the Applicant has taken delivery of the goods. If the quantity of goods exceeds the amount owing, the Company will be entitled to determine which of the goods it claims ownership in.

4. Quotations

Any quotation made by the Company shall not be construed as an offer or obligation to sell and accordingly, the Company reserves the right to accept or reject, at its discretion, any orders which may be received by it without giving reason therefore. Subject to the Company's right to withdraw from a quotation at any time before acceptance by the Applicant, all quotations are good and valid for a period of 30 days only and thereafter shall be subject to review.

5. Prices

All prices are Free On Board ex the Company's premises on which the Applicant's order is placed and are subject to adjustment without notice to the Applicant in accordance with, amongst other things, the Company's prevailing prices at the time of delivery. The prices given in any other quotations shall be based on the quantities referred to therein and therefore, should there be any variation in the quantity of goods ordered from that quoted, then the Company shall have the right to amend the price quoted accordingly. In addition to the prices hereby referred to all costs of delivery and expenses of or incidental to preparing the goods in a deliverable state shall be at the cost and expense of the Applicant and shall be the Company's costs and expenses prevailing at the time of delivery. All prices quoted are based on standard packaging and any specified requirement of the Applicant for additional packaging or packaging other than that usually provided by the Company, shall be at the cost and expense of the Applicant.

The Applicant acknowledges that it is not part of the Company's usual trading terms to offer or provide rebates in respect of any order accepted and goods delivered. No rebates will be paid unless specifically agreed to in writing by the Company at the date of acceptance.

Any request by the Applicant to supply certificates of inspection, testing or compliance with any national, international or other standard will be subject to such additional charge as notified by the Company.

Additional charges will be incurred for any request by the Applicant for non-standard drum size, spools, non-standard putups or cutting unless such changes are part of the quotation accepted in writing by the Company. Any such additional charge will be as notified by the Company.

Unless agreed to in writing by the Company, prices do not include:

- a) transport ex the Company's premises;
- b) off-loading the goods after transportation;
- c) any government duties, taxes, service costs etc. levied or charged upon the goods supplied or the supply of the goods.

These costs are payable by the Applicant.

6. Terms

Unless otherwise agreed to in writing by the Company, payment for the goods and all other costs and expenses herein mentioned shall be made to the Company strictly net cash within thirty (30) days from the date of invoice. Should the Applicant delay or default in respect of any payment due to the Company, the Company shall have the right, in addition to all other rights which are herein given, or which are conferred by law, to charge interest at such rates as shall be charged from time to time to the Company by its bankers for overdraft accommodation, such interest to be calculated from the date of delivery to the date of full and final payment by the Applicant. Any payment by the Applicant will be credited first against the interest accrued to the date of payment.

The Applicant acknowledges that the Company may at any time and without the need to provide a reason to the Applicant refuse to extend any further credit to the Applicant and that the Company's approval of this Application does not require the Company to extend to the Applicant any particular amounts of credit. The Company may refuse an initial application for credit, but may proceed if the Company is able to obtain insurance against a default by the Applicant and the Applicant pays to the Company the amount of any premium for that insurance.

7. Goods and Services Tax (GST)

The Company's prices are exclusive of GST and any such charge or similar charges shall be at the cost of the Applicant. The GST charges by the Company are based on the tax believed by the Company to be correct at the date of acceptance of the Applicant's order ("the initial charge"). Should there be any variation required to the initial charge for any reason (including unintentional error) subsequent to the date of acceptance of the Applicant's order, then the price of the goods and the amount payable by the Applicant shall be adjusted accordingly.

8. Sample

Notwithstanding that a sample of the goods may be exhibited to and inspected by the Applicant such sample will only be exhibited and inspected solely to enable the Applicant to judge for itself the quality of the bulk and not so as to constitute a sale by sample.

9. Information and Drawings

All descriptions, specifications, illustrations, drawings, data, dimensions and weights furnished by the Company or otherwise contained in catalogues, price lists or other advertising matter of the Company are only intended to be a general description of the goods and shall not form part of the contractual description thereof unless agreed to in writing by the Company in which case such descriptive specifications etc shall be subject to recognised tolerances.

10. Acceptance

The Applicant shall inspect the goods forthwith upon their delivery and shall within seven (7) days from such inspection give written notice to the Company of any matter or thing by reason whereof the Applicant may allege that the goods are not in accordance with the contract. If the Applicant fails to give such notice then to the extent permitted by law the goods shall be deemed to have been accepted by the Applicant and the Applicant shall pay for the same in accordance with the provisions hereof.

11. Delivery

Unless otherwise agreed to in writing by the Company, the Applicant shall take possession of the goods at the Company's warehouse at which the order was placed and this shall be the place of delivery. If it is agreed that delivery shall take place beyond this point then notwithstanding any other provision hereof risk in the goods shall pass to the Applicant immediately upon the goods being loaded for the purpose of carriage to the agreed place of delivery and all costs and expenses (if any) of and incidental to the carriage and insurance of the goods shall be payable by the Applicant. Should for any reason the Company act as a carrier of the goods to the agreed place of delivery then, in the event of loss or damage to the goods in transit caused by or resulting from any act, neglect or default attributable to the Company, the Company's liability to the Applicant shall be limited to and completely discharged by either the replacement or the repair of any goods so lost or damaged. Any claim for such loss or damage to the goods must be made within 48 hours of the date of delivery.

Delivery times or availability of orders for dispatch are estimates only and any time for delivery or completion/availability of any order shall be deemed not to form part of these terms and conditions or otherwise impose any contractual obligation or representation on the Company in that regard.

12. Goods Supplied

Subject to the terms and conditions contained herein, the Company agrees to manufacture and supply goods, where stipulated, in accordance with the Applicant's requested specifications however in such case the Company gives no assurances or warranties that any goods supplied will be fit for the Applicant's intended purpose.

The Company reserves the right to change, discontinue or modify the design and/or construction of the goods to be supplied, or to substitute material to that originally specified provided that the quality of the goods is not affected and that the goods are fit for the Applicant's intended purpose.

The Company also reserves the right unless otherwise agreed in writing, to increase or decrease the quantity of any order by up to 10% to allow for manufacturing tolerances in special (non-standard line items) cable and the Applicant agrees that the cost of any such order subject to increases or decreases due to manufacturing tolerances will vary accordingly.

13. Risk

The goods supplied by the Company shall be at the Applicant's risk immediately on delivery to the Applicant or into the custody of anyone acting on the Applicant's behalf, including carriers, whichever is the sooner. If for any reason the Applicant fails to take possession of the goods within seven (7) days from the date in which the Applicant is notified that the goods or part thereof are ready for delivery, then risk in the goods shall forthwith pass to the Applicant and the Company shall be entitled to payment for the goods in accordance with the provisions hereof. In the event that the Applicant fails to take possession of the goods within the said period of seven (7) days, the Company shall arrange storage of the goods at its warehouse or some other suitable place (goods will be stored at the Applicant's risk) and all costs of and incidental to such storage shall be payable by the Applicant and in addition to the Company being entitled to forthwith receive payment for the goods, the Company may impose a penalty of 1% of the total cost of goods for each month (or part month) that delivery is delayed or possession is not taken.

14. Termination

This Contract may, at the Company's option be terminated in the event of insolvency of the Applicant or execution being levied against any of the goods of the Applicant, or if the Applicant is placed in liquidation whether voluntary or otherwise and upon such termination the Company shall be entitled to repossess and take back at the cost of the Applicant all goods which remain the property of the Company without prejudice to any other right conferred upon the Company by law.

15. Change of Ownership

The Applicant agrees to notify the Company of any change in ownership or address of the Applicant. Notwithstanding any change to the Applicant's ownership/trading structure or any advice by it to the Company of such change, the Applicant will remain personally liable for any goods and services requested by it on its behalf until it has received written confirmation from the Company that its account has been closed and full payment received and a new account has been opened in the name of the new entity.

16. Cancellation and Return of Goods for Credit

Orders accepted by the Company cannot be cancelled by the Applicant prior to delivery except with the Company's consent and in accordance with such terms as the Company sees fit and the Applicant will indemnify the Company against all loss which it may suffer arising out of such cancellation. In respect of goods delivered to the Applicant at its request, the Company at its option will only allow the Applicant credit for returned goods in accordance with the following conditions:-

- a) In every case the original number and date of invoice must be quoted by the Applicant;
- b) All goods must be returned to the Company's warehouse in which the order is placed within 30 days from the date of delivery to the Applicant;
- c) Where goods supplied by the Company in a special manufacturer's carton then the goods must be returned in that carton in their original and unmarked condition, complete with all instructions and other documents originally supplied therewith;
- d) All charges for outward and inward freight, packaging and delivery are payable by the Applicant and should be prepaid. If such charges are not so paid by the Applicant then they will be deducted from the credit otherwise hereby allowed;
- e) credit will only be given in respect of goods which are suitable for re-sale;
- f) any goods returned which satisfy the above requirements will be subject to a 15% restocking fee which will be deducted from the amount to be credited ("restocking fee");
- g)
 - (i) If the goods are returned within seven (7) days from the date of delivery then subject to the provisions of sub - clauses (a) to (f) hereof the credit allowed to the Applicant will be the invoice value of the goods less the restocking fee;

(ii) If the goods are returned after seven (7) days but before 30 days from the date of delivery then subject to the provisions of sub - clauses (a) to (f) hereof the credit allowed to the Applicant will be the invoice value less 10% thereof less the restocking fee;

The following goods which have been supplied by the Company at the Applicant's request cannot be returned for credit under any circumstances:-

A Any goods marked on the company's invoices as "NOT REFUNDABLE";

B Any goods that have been altered, damaged or used in any manner whatsoever by the Applicant or any person other than the Company;

C Any goods, which have been made or purchased to the special order of the Applicant or any other person.

Claims for short supply in an order will not be considered unless any such discrepancy is noted on the carrier's delivery docket (or the equivalent documentation evidencing delivery to the Applicant of the goods in question) and any such claim must be made in writing to the Company within seven (7) days of receipt of the consignment otherwise all such claims must be made by the Applicant against the carrier.

17. Warranties

The only conditions or warranties which are binding on the Company in respect of the state, quality or condition of the goods supplied by it to the Applicant are those imposed and required to be binding by statute (including the Trade Practices Act 1974) and to the extent permitted thereby the liability (if any) of the Company arising from the breach of such condition or warranties shall at the Company's option be limited to and completely discharged by either the replacement or repair of the goods supplied by the Company to the Applicant and otherwise all other conditions and warranties whether express or implied by law in respect of the state, quality or condition of the said goods which may apart from this clause be binding on the Company are hereby expressly excluded and negated. Notwithstanding the foregoing, the maximum warranty period applicable shall not exceed 12 months from the date of delivery.

Except to the extent provided immediately above the Company shall have no liability (including liability in negligence) to any person or for any loss or damage consequential or otherwise, however suffered or incurred, to the Applicant or any other person in relation to the goods and without limiting the generality hereof, in particular, any loss or damage consequential or otherwise however suffered or incurred, to the Applicant or any other person, caused by or resulting directly or indirectly from any failure, breakdown, defect or deficiency of any kind or nature in the goods.

The Company does use nylon in the process of manufacturing the goods for protection against termite attack. However, the Company makes no warranty or guarantee that the possibility of termite attack has been in any way reduced or eliminated and the Company accepts no liability for any damage or loss caused by termites.

18. Price Lists

In the event of resale, the prices set out or referred to in the Company's price list or any other document are recommended only, and there is no obligation to comply with the recommendation.

19. Damages and Retentions

The Company and or its Employees will not accept any form of damages or retentions for any reason under any circumstance.

20. Compliance

Failure by the Company to insist upon compliance with any provisions of these terms does not constitute a waiver of that provision and the Company shall be entitled to insist upon compliance with all provisions of these terms at any time.

21. Application of Terms and Conditions

Unless otherwise agreed to by the Company, the terms and conditions contained herein will apply to any contract, agreement, or arrangement between the Applicant and the Company for the supply of any goods.

