

# BAKERS

CONSTRUCTION + INDUSTRIAL

A Division of J. Blackwood & Son Ltd.

A.B.N. 43 000 010 300

SUPPLIERS OF ENGINEERING, INDUSTRIAL, ELECTRICAL PRODUCTS & METALS

## APPLICATION FOR A COMMERCIAL CREDIT ACCOUNT

(Incorporating Terms and Conditions of Quotation and Sale — 2006)

### REGIONAL CREDIT OFFICES:

#### New South Wales / Act

13 Cooper Street, Smithfield NSW 2164  
Telephone (02) 9203 0111, Fax (02) 9757 4179

Postal Address:  
Locked bag 9, Wetherill Park NSW 2164

#### Victoria / Tasmania / South Australia

1 Caribbean Drive, Scoresby VIC 3179  
Telephone (03) 9518 2222, Fax (03) 9543 1088

Postal Address:  
PO Box 9265, Scoresby VIC 3179

#### Queensland / Northern Territory

131-137 Mica Street, Carole Park QLD 4300  
Telephone (07) 3712 6200, Fax (07) 3271 6090

Postal Address:  
PO Box 575, Richlands QLD 4077

#### Western Australia

183-189 Bannister Road, Canning Vale WA 6155  
Telephone (08) 9311 6400, Fax (08) 9311 6484

Postal Address:  
PO Box 1304, Canning Vale DC WA 6970

OFFICE USE ONLY			
MANDATORY FIELDS			
APPLICATION SUBMITTED BY:			
BRANCH:		CUSTOMER CLASSIFICATION:	
ANZSIC CODES:		M1 <input type="checkbox"/>	M2 <input type="checkbox"/> M3 <input type="checkbox"/> M4 <input type="checkbox"/> M5 <input type="checkbox"/>

# THIRTY DAY COMMERCIAL CREDIT ACCOUNT APPLICATION

Please tick your applicable business structure:-

PRIVATE (Pty) COMPANY     
  PUBLIC COMPANY     
  PARTNERSHIP     
  SOLE TRADER

YOUR TRADING NAME: .....

COMPANY NAME (IF APPLICABLE): .....

SUBSIDIARY/DIVISION OF (IF APPLICABLE): .....

NATURE OF BUSINESS: .....

POSTAL ADDRESS: .....

DELIVERY ADDRESS: .....

CONTACT FOR ACCOUNTS: MR MRS MS ..... POSITION HELD: .....

CONTACT FOR PURCHASES: MR MRS MS ..... POSITION HELD: .....

A.C.N. OR BUSINESS REGISTRATION NUMBER: .....

AUSTRALIAN BUSINESS NUMBER (ABN - for Tax Purposes): .....

TELEPHONE NUMBER: ( ) ..... FACSIMILE NUMBER: ( ) .....

E-MAIL ADDRESS: .....

IN WHAT YEAR DID THE ABOVE NAMED BUSINESS COMMENCE OPERATIONS? .....

NATURE OF BUSINESS: ..... NO OF EMPLOYEES: .....

DO YOU REQUIRE A MONTHLY STATEMENT? YES  NO  DO YOU WISH TO TRADE ELECTRONICALLY:  YES  NO

Please tick one: WOULD YOU LIKE A NEWSLETTER EMAILED TO YOU:  YES  NO

PLEASE SEND AN INVOICE WITH GOODS  OR

PLEASE MAIL INVOICES TO THE ABOVE "POSTAL ADDRESS"

HOW MUCH CREDIT DO YOU NEED? MULTIPLY YOUR MONTHLY ESTIMATE BY 2 = \$

This becomes your requested credit limit based on 30 day terms

NAME AND ADDRESSES OF DIRECTORS/PARTNERS/SOLE TRADER

CHRISTIAN NAME	SURNAME	HOME ADDRESS
.....	.....	.....
.....	.....	.....
.....	.....	.....

TRADE REFERENCES (Please do not list businesses providing services):

NAME OF SUPPLIER	ADDRESS/SUBURB ONLY	TELEPHONE NUMBER	AVERAGE MONTHLY PURCHASES
.....	.....	.....	\$
.....	.....	.....	\$
.....	.....	.....	\$

I/We consent to all sellers (as named in Terms and Conditions of Quotation and Sale)(the Seller):

- (a) making such enquiries as the Seller deems necessary including but not limited to obtaining reports from persons nominated as trade credit referees, bankers and financiers, credit providers, mortgage and trade insurers and credit reporting agencies ("the Information Sources");
- (b) obtaining from the Information Sources such information as is required by the Seller;
- (c) disclosing the content of any report from an Information Source in whole or in part to any credit reporting agency for the purpose of allowing that credit reporting agency to create or add to any credit information file or data base in relation to me/us.

I/We acknowledge having received a copy of the Seller's Terms and Conditions of Quotation and Sale — 2005 and agree that they will govern the supply of products to me/us to the exclusion of all other terms and conditions. I/We further acknowledge that the Seller's Terms and Conditions of Quotation and Sale may be amended at any time by written notice to me/us.

**I/We understand goods sold to us must be paid for within thirty (30) days from the month in which we are invoiced.**

**Privacy Act**

The seller is committed to protecting the privacy of the personal information that you provide to us and we only collect personal information from you which is necessary for us to enable us to assess and process your application for a Commercial Credit Account and/or provide assistance to you. If you do not provide us with this information, we may not be able to assess and process your application. Wherever practicable, we will ask you for the information directly. However, we may need to contact other people and organisations, such as credit reference agencies or referees to collect information about you. We may also disclose your personal information to our relevant staff and to our agents, contractors and third party suppliers engaged by us to deliver our services. We must rely on you to provide information to us that is current and accurate and we will give you the opportunity to access the personal information we hold about you and, where necessary, correct any errors in this information (some restrictions and costs may apply). If you are forwarding information to us on behalf of your organisation (noting the personal information of the/other Directors/Proprietors/Partners) we seek assurance from you that the information you forward to us has been collected with the knowledge and consent of the person(s) whose personal information has been provided.

.....  
SIGNATURE OF AUTHORISED PERSON

.....  
POSITION HELD BY SIGNATORY

.....  
NAME IN BLOCK LETTERS

.....  
DATE

**Bakers Commercial Credit Account**

Please detach your copy of our terms and conditions of sale — 2006.

## **TERMS AND CONDITIONS OF QUOTATION AND SALE – 2006**

These are the terms and conditions upon which all Sellers (as named in section 1.1(k)(i) below) or as agents for Sellers sell and quote for the sale of goods.

### **1. DEFINITIONS AND INTERPRETATION**

#### **1.1 Definitions**

In these terms and conditions, unless the context otherwise requires:

- (a) "Application" in relation to a Buyer means the Thirty Day Commercial Credit Account Application signed by the Buyer which refers to these terms and conditions.
- (b) "Buyer" means the Person named in the relevant Sales Invoice or Quotation.
- (c) "Exclusive Goods" means any goods which are, at the Buyer's request, embellished, embroidered, printed, machined, cut-to-size or specifically ordered for the Buyer.
- (d) "GST" means the goods and services tax as imposed by the GST Law together with any related interest, penalties, fines or other charge.
- (e) "GST Amount" means any Payment (or the relevant part of that Payment) multiplied by the appropriate rate of GST.
- (f) "GST Law" has the meaning given to that term in A New Tax System (Goods and Services) Act 1999, or, if that Act does not exist for any reason, means any Act imposing or relating to the imposition or administration of a goods and services tax in Australia and any regulation made under that Act.
- (g) "Payment" means any amount payable under or in connection with a Quotation or Sales Invoice including any amount payable by way of indemnity, reimbursement or otherwise (other than a GST Amount) and includes the provision of any non-monetary consideration.
- (h) "Person" includes an individual, the estate of an individual, a body politic, a corporation, an association (incorporated or unincorporated) and a statutory or other authority.
- (i) "Purchase Price" means the price for the goods set out in the relevant Quotation or Sales Invoice.
- (j) "Quotation" means the form of quotation submitted by a Seller to the Buyer in which these terms and conditions are deemed to be incorporated.
- (k) "Sales Invoice" means the sales invoice issued by a Seller to the Buyer in which these terms and conditions are or are deemed to be incorporated.
- (l) "Seller" in relation to any Quotation or Sales Invoice means:
  - (i) except as set out in (ii) below, whichever of J BLACKWOOD & SON LIMITED ABN 43 000 010 300 (also trading as Blackwoods, Bakers Construction & Industrial, Mullings Fasteners, Motion Industries, Blackwoods-Atkins) or PROTECTOR ALSAFE PTY LIMITED ABN 28 007 000 624 is named in the quotation.
  - (ii) if in a Quotation or Sales Invoice a company referred to in (i) above is expressed to be acting as agent for a Person named in the Sales Invoice or Quotation then the Seller is that Person and the Buyer acknowledges that the Seller as named above acts only as the agent of that Person.
- (m) "Tax Invoice" has the meaning given to that term by the GST Law.
- (n) "Taxable Supply" has the meaning given to that term by the GST Law.

#### **1.2 Interpretation**

- (a) Any special conditions specified on a Quotation or Sales Invoice shall, to the extent they are inconsistent with these terms and conditions, take precedence over these terms and conditions.
- (b) Words importing the singular shall include the plural (and vice versa).
- (c) If any provision of these terms and conditions is invalid and does not go to the essence of this agreement, these terms and conditions should be read as if that provision has been severed.

### **2. GOVERNING TERMS AND CONDITIONS**

These are the only terms and conditions which are binding upon a Seller with the exception of those otherwise agreed in writing by the Seller which are imposed by a statute and which cannot be excluded. Any direction by the Buyer either verbal or written to procure goods or services from the Seller will be deemed as acceptance by the Buyer of these terms and conditions, despite any provisions to the contrary in the direction or any purchase order issued by the Buyer.

### **3. TERMS OF PAYMENT**

Payment to the Seller for goods delivered and accepted is due within 30 calendar days of the end of the month in which the goods are invoiced. If the Buyer fails to make payment in accordance with this clause, all amounts owing by the Buyer to the Seller named in the Sales Invoice or any other Seller on any account shall immediately become due and payable. Each outstanding amount shall bear interest of the rate of 10% per annum calculated on a daily basis from the day it falls due until the day it is paid.

### **4. INSPECTION AND ACCEPTANCE**

The Buyer shall inspect all goods upon delivery and shall within 48 hours of delivery give notice to the Seller named in the relevant Sales Invoice or of any matter or thing by which the Buyer alleges that the goods are not in accordance with the Buyer's order. Failing such notice, subject to any non-excludable condition implied by law, such as those in the Trade Practices Act 1974 (Cth), the goods shall be deemed to have been delivered to and accepted by the Buyer.

### **5. RETURNS**

- (a) Returns will be accepted for faulty or defective goods or any other non-excludable obligations of the Seller set out in the Trade Practices Act 1974 (Cth) or similar State and Territory legislation.
- (b) Returns other than those referred to in (a) above, must be approved by the Seller named in the relevant Sales Invoice. These authorised returns must be freight prepaid and will only be accepted if they are in a saleable condition. The Seller reserves the right to charge a handling fee equal to 10% of the price of the goods returned under this provision. Products specifically purchased, manufactured, machined or cut to size or to the Buyer's specification are not returnable unless they are of the kind referred to in (a) above.

### **6. QUOTATIONS**

- (a) Unless previously withdrawn, a quotation is valid for 30 days or such other period as stated in it. A quotation is not to be construed as an obligation to sell but merely an invitation to treat and no contractual relationship shall arise from it until the Buyer's order has been accepted in writing by the Seller which provided the Quotation.
- (b) No Seller shall be bound by any conditions attaching to the Buyer's order or acceptance of a Quotation and, unless such conditions are expressly accepted by the relevant Seller in writing, the Buyer acknowledges that such conditions are expressly negated.
- (c) Every Quotation is subject to and conditional upon obtaining any necessary import, export or other licence.

### **7. GST**

The parties agree that:

- (a) the Purchase Price is inclusive of GST;
- (b) all other Payments have been calculated without regard to GST;
- (c) each party will comply with its obligations under the Trade Practices Act 1974 when calculating the amount of any Payment and the amount of any relevant Payments will be adjusted accordingly;
- (d) if the whole or any part of any Payment is the consideration for a Taxable Supply (other than for payment of the Purchase Price) for which the payee is liable to GST, the payer must pay to the payee an additional amount equal to the GST Amount, either concurrently with that Payment or as otherwise agreed in writing.
- (e) any reference to a cost or expense in this Agreement excludes any amount in respect of GST forming part of the relevant cost or expense when incurred by the relevant party for which that party can claim an Input Tax Credit; and the payee will provide to the payer a Tax Invoice.

### **8. PASSING OF PROPERTY AND RISK**

- (a) Goods supplied by a Seller to the Buyer shall be at the Buyer's risk immediately upon delivery to the Buyer, into the Buyer's custody or at the Buyer's direction (whichever happens first). The Buyer shall insure the goods from the time of that delivery at its cost against such risks as it thinks appropriate, shall note the interest of the Seller named in the relevant Sales Invoice on the insurance policy and shall produce a certificate to this effect to that Seller upon request.
- (b) Property in the goods supplied by a Seller to the Buyer under these terms and conditions shall not pass to the Buyer until those goods and other goods have been paid for in full.
- (c) Until the goods have been paid for in full:
  - (i) the Buyer shall store the goods in a manner which shows clearly that they are the property of the Seller which supplied them; and
  - (ii) the Buyer may sell the goods, in the ordinary course of its business, as agent for the Seller and shall account to the Seller for the proceeds of sale (including any proceeds from insurance claims). These proceeds must be kept in a separate bank account.
- (d) The Buyer irrevocably authorises each Seller at any time to enter onto any premises upon which:
  - (i) the Seller's goods are stored to enable the Seller to:– inspect the goods; and/or – if the Buyer has breached these terms and conditions, reclaim the goods;
  - (ii) the Buyer's records pertaining to the goods are held to inspect and copy such records.
- (e) The Buyer and each Seller agree that the provisions of this clause apply notwithstanding any arrangement under which that Seller grants credit to the Buyer.

## 9. SUPPLY

Each Seller reserves the right to suspend or discontinue the supply of goods to the Buyer without being obliged to give any reason for its action.

## 10. PART DELIVERIES

Each Seller reserves the right to make part deliveries of any order, and each part delivery shall constitute a separate sale of goods upon these terms and conditions. A part delivery of an order shall not invalidate the balance of an order.

## 11. INSTALLATION

A Seller's Quotation or Sale Invoice is made on a supply only basis. Installation and commissioning (if any) is at the expense of the Buyer unless otherwise specified in writing by the relevant Seller.

## 12. DIMENSIONS, PERFORMANCE DATA AND OTHER DESCRIPTIVE DETAILS

- (a) Photographs, drawings, illustrations, weights, dimensions and any other particulars accompanying, associated with or given in a Quotation, descriptive literature or a catalogue approximate the goods offered but may be subject to alteration without notice.
- (b) Any performance data provided by a Seller or a manufacturer is an estimate only and should be construed accordingly.
- (c) Unless agreed to the contrary in writing, each Seller reserves the right to supply an alternative brand or substitute product when necessary.

## 13. SHIPMENT AND DELIVERY

- (a) Upon acceptance of an order by a Seller that Seller will seek confirmation of the period of shipment or delivery. If any variation has occurred in the quoted period, that Seller will notify the Buyer. Unless the Buyer objects in writing within 7 days of that notification to the Buyer, the period of shipment or delivery notified to the Buyer will be the contractual period for shipment or delivery.
- (b) A delivery charge will apply to all deliveries with the exception of back order deliveries which are part of an original order that has been partly fulfilled.

## 14. MANUFACTURERS' CHANGES

Where a Seller is acting as agent for a manufacturer or supplier, the Seller shall not be liable for any alteration or variation in the goods made by this manufacturer or the supplier.

## 15. CURRENCY

Where goods are imported into Australia, any adverse variation in the price arising from fluctuation in exchange rates between the date of the Buyer's order and the date of payment by the relevant Seller will be to the Buyer's account.

## 16. CONTINGENCIES

Any charge, duty, impost, sales tax or other expenditure which is not applicable at the date of Quotation or Sales Invoice but which is subsequently levied upon a Seller in relation to a Quotation or Sales Invoice as a result of the introduction of any legislation, regulation or governmental policy, shall be to the Buyer's account.

## 17. CHARGES BEYOND POINT OF DELIVERY QUOTED

Unless otherwise agreed in writing, if a Seller prepays freight, insurance, custom and import duties (if any), landing and delivery charges and all other charges in connection with shipment and delivery of the goods, then any such charges shall be to the Buyer's account. Each Seller reserves the right to nominate the means of delivery.

## 18. FORCE MAJEURE

If the performance or observance of any obligations of any Seller is prevented, restricted or affected by reason of a force majeure event including strike, lock out, industrial dispute, raw material shortage, breakdown of plant, transport or equipment or any other cause beyond the reasonable control of the Seller, the Seller may, in its absolute discretion give prompt notice of that cause to the Buyer. On delivery of that notice the Seller is excused from such performance or observance to the extent of the relevant prevention, restriction or effect.

## 19. DEFAULT OF BUYER

If these terms and conditions are not strictly observed by the Buyer, the Seller may in its absolute discretion, refuse to supply to the Buyer and the Seller shall not be liable to the Buyer for any loss or damage the Buyer may sustain as a result of such refusal. The costs of collection of any moneys are due and payable by the Buyer, including the fees of any mercantile agent or lawyer engaged by the Seller.

## 20. BUYER'S CANCELLATION

If these terms and conditions are not strictly observed by the Buyer, the Seller may in its absolute discretion, refuse to supply to the Buyer and the Seller shall not be liable to the Buyer for any loss or damage the Buyer may sustain as a result of such refusal. The costs of collection of any moneys are due and payable by the Buyer, including the fees of any mercantile agent or lawyer engaged by the Seller.

## 21. WARRANTY AND LIABILITY OF SELLER

- (a) The Seller makes no express warranties under this Agreement except that to the extent that the goods supplied are covered by the manufacturer's warranty, the Seller will pass on to the Buyer the benefit of the manufacturer's warranty.
- (b) Upon discovery of any defect in the goods supplied by a Seller the Buyer shall immediately notify that Seller in writing. The Buyer shall not carry out any remedial work to allegedly defective goods without first obtaining the written consent of that Seller to do so.
- (c) The Seller does not exclude or limit application of any provision of any statute (including the Trade Practices Act (Cth)) where to do so would contravene that statute or cause any part of this clause to be void.
- (d) The Seller excludes all conditions, warranties and terms, whether expressed or implied by law or otherwise in respect of the goods which may apart from this clause be binding upon the Seller, except any implied conditions and warranties the exclusion of which would contravene any statute or cause this clause to be void.
- (e) To the extent permitted by statute, the liability, if any, of the Seller arising from the breach of any implied conditions or warranties in relation to the supply of goods other than goods of a kind ordinarily acquired for personal, domestic or household use or consumption, shall at the Seller's option be limited to:
  - (i) the replacement of the goods or resupply of the goods by the Seller;
  - (ii) the repair of the goods.
- (f) The Seller excludes all liability to the Buyer in negligence for acts or omissions of the Seller, its employees, agents and contractors and all liability to the Buyer in contract for consequential or indirect loss or damages, arising out of or in connection with this Agreement.
- (g) The Buyer expressly acknowledges and agrees that it has not relied upon, any advice given by a Seller, its agents or employees in relation to the suitability for any purpose of goods or materials supplied by a Seller.
- (h) To the extent permitted by statute, all warranties (whether express or implied, and whether given by the Seller, the manufacturer or a third party) and any obligation of the Seller to repair or replace any goods are void in respect of any goods which the Buyer tampers with or alters.

## 22. ALTERATION TO CONDITIONS

A Seller may, at any time and from time to time, alter these terms and conditions.

## 23. VIENNA SALES CONVENTION

The United Nations Convention on Contracts for the International Sale of Goods (Vienna 1980) known as the Vienna Sales Convention does not apply to the contract comprised by these terms and conditions nor do any of the terms and conditions express or implied by the Vienna Sales Convention form part of the contract.

## 24. GOVERNING LAW

These terms and conditions and any contract including them shall be governed by and construed in accordance with the laws of the State of New South Wales and the Seller and the Buyer submit to the non-exclusive jurisdiction of the Courts of New South Wales.

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