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Trade Terms & Conditions

The applicant and Vertilux Corporation Pty.Ltd. hereon referred to as the company, agree that these terms and conditions apply exclusively to all goods supplied by the company to the applicant unless expressly vary in writing and signed by the applicant and the company.

1. **Declaration**

I/We acknowledge and understand that we have sought to open a credit account with Vertilux Corporation Pty.Ltd. (from hereon to be referred as “the company”).

I/We acknowledge and understand that as directors, shareholders, partners, principals of the business the company may seek personal information from a credit reporting agency my/our personal credit dealings.

2. **Solvency**

- a) The undersigned and any director or principal of the applicant have never been made bankrupt and are to the best of their knowledge solvent and able to pay their debts as and when they fall due and have not made any compromise or arrangement with their creditors and no application has been made or proposed to summon a meeting of their creditors or any class of them.
- b) That the applicant (if a corporation) is solvent and able to pay its debts as they fall due and is not in liquidation or being wound up and no meeting has been called or resolution has been passed or order made for such purposes and no Receiver or Receiver and Manager and Agent or Agents for the Mortgagee in Possession has been appointed in respect of the applicant and the applicant has not made any compromise or arrangement with its creditors or any class of them and no application has been proposed or made to any court for an order summoning a meeting of its creditors or any class of them.

3. **Payment Terms**

- a) The applicant agrees that it shall pay the company in full the total purchaser price stated in the company’s statements within thirty (30) days of the receipt by the Applicant of the company’s statement. In the event that the company’s statement is posted by ordinary post, the Applicant shall be deemed to have received the company’s statement two (2) clear days after the date of posting.
- b) The company reserves the right to place any account C.O.D. and/or refuse payment by personal cheque.
- c) The company reserves the rights at all times to suspend the supply of further goods on credit if the account is not paid by the thirtieth day.
- d) The company may at their sole discretion allow a settlement discount conditional upon receipt of payment of goods within 7 days from the end of the month during which those goods were invoiced.
- e) In the event of any charges alleged to be in dispute notice of such dispute having already been received all other charges must be paid pending investigations of the charges so disputed.
- f) The company will determine a credit limit for each Applicant based upon their past trading activities and payment record. If at any time the credit limit is exceeded the company retains the right to refuse any current order and future orders until payment is cleared. This condition applies on all circumstances whether or not the account is within its normal trading terms or not.

- g) The company may at its sole and absolute discretion appropriate any payment received from the applicant against whatever outstanding amounts are due.

4. **Default**

- a) The Applicant defaults in payment of any amount due to the company, the Applicant hereby irrevocably gives to the company licence, in addition to and without limitation of any other right it may have, without notice to enter on any premises where any of the goods are kept and repossess same and thereafter to deal with the goods as its own property. The applicant acknowledges that to the maximum extent possible by law it shall do all things that may be reasonable where any of the said goods may be located in order to give effect to this covenant.
- b) The Applicant will indemnify the company against loss or outgoing suffered as a result of any breach or non-compliance by the Applicant of any of these conditions of sale.
- c) Where the applicant breaches clause 3a and defaults on payment penalty interest at the rate of 18% p/a compounded monthly shall become due and payable from the date of default condition to the date owed and any legal or collection cost until the date of payment, judgement and or execution against the applicant.

5. **Lien**

The Customer hereby acknowledge that the seller has a lien overall good in it, possession belonging to the customer to secure payment of any or all amount from time to time.

6. **Customer Orders**

- a) The company reserves the right to refuse to supply any order at its sole and absolute discretion in the event the Australian Dollar is devalued as against the United States dollar and or the Italian Lira by more than 10 per cent in the period between the date of the placement of the order (whether verbal or writing) and the date of delivery of the goods. The devaluation shall be computed by reference to the retail rate on the relevant date as defined in the Australian Financial Review.
- b) Any claims for shortages or loss or damage in respect of goods acquired must be made in writing by the applicant and forwarded to the company within 14 days of the dates of delivery of the goods.
- c) The company shall not be bound to accept any return of goods by the applicant unless a return is authorized in writing by a representative of the company.

7. **Exclusions and Limitations**

- a) The applicant and the company agree that the company accepts no responsibility or liability whatsoever or however arising whether in Contract or Tort or otherwise for loss of profit, business or saving for any indirect or consequential loss of any nature arising out of or from acts of or from the use custody supply or purchase of the goods to the fullest extent permitted by law and the applicant forever discharges the company from all such responsibilities and liabilities claims demands or action in respect thereof.

- b) Notwithstanding, any other clause in the agreement the company gives no express warranty in relation to the supply of the goods and the applicant acknowledges that it has not relied on representation or warranty made by or on behalf of the company in relation to the goods supplied.
- c) Where the Trade Practices Act 1974 and similar state and territories legislation implied conditions and warranties and to the agreement for the supply of the goods for the benefit of the applicant then to the extent that those conditions and warranties may as between the applicant and the company be lawfully excluded or such conditions and warranties are expressly excluded.
- d) Where the company becomes liable to the applicant in any manner for any breach of any condition or warranty expressed or implied in relation to the supply of goods then the company liability will be limited at the company sole and absolute discretion to either:-
 - i) The replacement of goods or the supplies of equivalent goods; or
 - ii) The price paid by the applicant for goods; or
 - iii) The cost of the re supply of the goods.

These terms and conditions of trade constitute the entire agreement between the parties pertaining to its subject matter and supersede all prior agreements, understandings, arrangements and negotiations of the parties connected with.

The company and applicants may vary these terms and conditions of trade only by way of written memorandum signed by each of the parties.

8. Miscellaneous

The agreement evidenced by any invoice is at all times to be governed by the laws of the state of Victoria and the company and the applicant irrevocably and unconditionally submits to the jurisdiction of the Courts of the state of Victoria and all Courts of Appeal therefrom.

Service of any notice documents or Court proceedings on the applicant shall be deemed to have occurred if they are served at the business address specified in the invoice.

If any of these provisions are illegal void or unenforceable shall be ineffective to the extent only of such illegality, voidness or unenforceability without invalidating the remainder provisions herein.

9. Caveat Claus

The seller is entitled to request from the applicant security to secure any credit facilities provided by the applicant, needs to take charge over all real and personal property owned by applicant for an amount equal to any amount that the applicant owes the seller from time to time under the credit facilities or otherwise and the applicant will execute any necessary documents for this purpose.

Review details

This document was last updated on 3rd April 2019.