

## TERMS AND CONDITIONS OF SALE PRODUCTS

1. Unless otherwise specified in writing, materials supplied will comply with the normal standard adopted by the Company for the class of materials ordered.
2. Testing of materials supplied will not automatically be carried out. If the results are to be used in any claim against the Company, testing shall be carried out in accordance with the relevant Australian Standard Test Procedure by a testing laboratory approved by the National Association of Testing Authorities and the results shall be furnished forthwith after testing to the Company. Any testing shall be done at the purchaser's expense.
3. Any claim in connection with the quality of the materials supplied must be made in writing to the Company within 7 days of delivery.
4. The quantity of materials designated on the face of the delivery docket will be the invoice quantity. Prior to delivery the purchaser shall sign the delivery docket, and by signing the purchaser becomes bound by the information shown therein. The purchaser shall notify the Company's Yard Manager of any claimed deficiency in quantity within 24 hours of delivery and such notification shall be confirmed in writing to the Company within 7 days of delivery.
5. The Company shall not be liable in any matter whatsoever for delay in delivery or non-delivery (or any costs associated therewith) which is attributable to transport delays, plant or equipment breakdowns, unavailability or shortage of materials, industrial stoppages or any other cause whatsoever which is beyond the direct control of the Company.
6. The price stated is based on:
  - a. Current costs of transport, labour and materials, and in the event of any variation to any of these costs prior to delivery the Company may adjust the price accordingly.
  - b. The Company's ruling minimum load, and in the event of deliveries being required of less than the minimum load, and additional cartage charge will be payable in accordance with the Company's ruling rates.
  - c. Delivery being made by the shortest access route available, and in the event of roads being closed and preventing delivery by the shortest access route, the Company shall have the right to charge for any additional costs incurred by it in making delivery.
  - d. Delivery being made during normal hours and in the event of delivery being required outside such hours, any additional cartage charge will be payable in accordance with the Company's ruling rates.
7. Until payment in full the Company retains legal and equitable title to and the purchaser remains bailee of the materials supplied and, to the extent of the Company's interest, any other objects into which the materials supplied may be incorporated and any proceeds from the sale of the materials supplied or the other objects.
8. If stated on a volumetric basis, the price will be based on a loose uncompacted volume as measured in the truck body at the place of trading.
9. a. The purchaser shall pay the price to the Company prior to delivery or within any credit period agreed in writing. All amounts not paid within the agreed credit period shall bear interest at the overdraft rate charged by the Company's principal bankers in respect of amounts over \$100,000 from invoice date until payment plus all costs, charges and expenses which may be incurred by the Company in the exercise or attempted exercise of any remedy. All amounts received by the Company will be credited first against interest and then against the said costs, charges and expenses.

Signed \_\_\_\_\_ Signed \_\_\_\_\_ Date \_\_\_\_\_

<b>NB:</b> ALL THREE PAGES OF THIS CREDIT APPLICATION MUST BE SIGNED AND DATED, ALONG WITH DIRECTORS GUARANTEE AND RETURNED TO P.O BOX 17 LAVERTON VIC 3028
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- b. If the purchaser fails to make the payment or if any dispute arises, the Company shall have the right at its option:
- (i) to suspend further performances of its obligations hereunder until the date of payment (plus interest, interests, costs, charges and expenses as aforesaid) or settlement of the dispute: and / or
  - (ii) to terminate the contract at any time, in either case without affecting any right or remedy of the Company whether arising before, after, or as a result of the dispute or the purchaser's failure to make due payment.
10. In the event of any dispute arising between the purchaser and the Company, the purchaser shall forthwith pay to the Company the amount claimed by the Company to be held by the Company until the determination of the dispute.
11. Any reference to the purchaser in these terms and conditions include the employees, agents, sub-contractors, successors, assignees of, and any entity claiming through or under, the purchaser. The actions or signatures of any person appearing to have the authority of the purchaser to do so shall bind the purchaser.
12. In the event of any materials supplied by the Company in pursuance thereof failing to meet the agreed standards, the liability of the Company (if any) shall be limited to the replacement of such defective materials. All other guarantees, warranties, undertakings, or representatives express or implied and whether arising by statute or otherwise are hereby expressly excluded (except to the extent only that such exclusion is prohibited by statute) and subject to the last mentioned exception these terms and conditions are the only terms and conditions of the contract between the Company and the purchaser. These terms and conditions cannot be altered except in writing by the Company's authorised representative.
13. The Company shall not in any circumstances in any dispute be liable for any indirect or consequential loss or damage of any nature whatsoever.
14. A statement signed by the company's authorised representative certifying the amount of any increased or other claim by the Company shall in the absence of manifest error be conclusive and binding.
15. The purchaser shall not and shall not be entitled to claim against the Company in connection with any act, omission or event arising hereunder, unless the claim is made to the Company in writing within the time period specifically stipulated in these terms and conditions or if no such is stated, within 7 days of the occurrence of the act, omission or event giving rise to the claim.
16. Delivery will only be made to the kerbside. If at the request of the purchaser the delivery vehicle enters the job area the Company shall not be liable for, and is hereby indemnified by the purchaser in respect of any claims made by or through the purchaser of any third party which arises out of effecting such entry of by the presence of the vehicle in the job area.

**I/WE AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF SALE AS SET OUT IN THIS APPLICATION AND WARRANT THAT THE INFORMATION GIVEN BY ME / US HEREIN IS TRUE AND ACCURATE.**

**FULL NAME OF PROPRIETOR OR AUTHORISED OFFICIER:**

**POSITION HELD:** \_\_\_\_\_  
**SIGNATURE:** \_\_\_\_\_  
**WITNESS:** \_\_\_\_\_ **SIGNATURE:** \_\_\_\_\_  
**DATE:** \_\_\_\_\_

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