

# Irisgrove Pty Ltd.



Unit 6 / 36 Blanck Street Ormeau Qld 4208  
Email [mark@ctms.net.au](mailto:mark@ctms.net.au)  
Web site: [www.coolingtowercentral.com.au](http://www.coolingtowercentral.com.au)

QBSA: 068268  
ABN: 28 482 908 122

Ph: 1300133440  
Fax: 0755493800  
Mob: 0419710417

## NEW CUSTOMER / CREDIT APPLICATION

### COMPANY DETAILS:

Sole Trader  Partnership  Private Company  Public Company   
Other Incorporated Body  Municipal/Government  Charity

FULL NAME OF APPLICANT: \_\_\_\_\_

REGISTERED TRADING NAME: \_\_\_\_\_

BUSINESS ADDRESS: \_\_\_\_\_

POSTCODE: \_\_\_\_\_

POSTAL ADDRESS: \_\_\_\_\_

POSTCODE: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

A.C.N \_\_\_\_\_ ABN: \_\_\_\_\_

EMAIL: \_\_\_\_\_ WEBSITE: \_\_\_\_\_

DATE BUSINESS COMMENCED: \_\_\_\_\_

### FULL NAME/S OF PROPRIETOR, DIRECTORS, PARTNERS:

Name	Address	Phone

### COMPANY CONTACT DETAILS:

TITLE	NAME	TELEPHONE	EMAIL
Project Manager			
Purchasing Officer			
Accounts Payable			

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## AMOUNT OF CREDIT REQUESTED:

Credit Limit Requested: \$ \_\_\_\_\_

Bank: \_\_\_\_\_ Branch: \_\_\_\_\_

Contact Name: \_\_\_\_\_ Telephone: \_\_\_\_\_

Accountant: \_\_\_\_\_ Telephone: \_\_\_\_\_

## CREDIT REFERENCES (not personal)

Please provide names, addresses and telephone numbers of main suppliers from whom references can be obtained.

Name	Address	Telephone
1)	_____	_____
2)	_____	_____
3)	_____	_____

**I/WE DECLARE THAT** I/we have read and understood this New Customer Application and Guarantee and Indemnity Statement, and Irisgrove's Terms and Conditions of Sale (together known as the Transaction Documents), incorporated into this Application and agree to be bound by them. The information provided by me/us in this Application is true and correct. It is upon the basis of the above statements that I/We submit this Application for acceptance by Irisgrove. If any change occurs to the information provided by me/us in this Application, I/we undertake to immediately notify Irisgrove of the details of such change. I/We understand that Irisgrove may withdraw or limit credit facilities at its absolute discretion without notice. I/We authorise Irisgrove to receive a Banker's Opinion for purposes connected with my/our business, trade or profession.

Authorised Signature \_\_\_\_\_ Print Name \_\_\_\_\_ Date \_\_\_\_\_

Position in Company \_\_\_\_\_

### OFFICE USE ONLY:

A/C No \_\_\_\_\_ Approved: Yes  No

### Comments:

Signed: \_\_\_\_\_ Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

## GUARANTEE

**At the request of the Customer and the Guarantors Irisgrove Pty Ltd agrees to provide credit to the Customer in consideration of this guarantee and indemnity being given by the Directors / Guarantors**

### 1. Guarantee

The Guarantor guarantees to Irisgrove Pty Ltd prompt performance of all of the Customer's obligations contained or implied under the terms of this Application. If the obligation is to pay money, Irisgrove Pty Ltd may recover the money from the Guarantor as a liquidated debt.

### 2. Indemnity

The Guarantor indemnifies Irisgrove Pty Ltd against any liability or loss arising from and any costs it incurs if:-

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- (a) The Customer does not, or is unable to, perform any of its obligations under the Transaction Document; or
- (b) An obligation the Customer would otherwise have under the Transaction Documents (including an obligation to pay money) is found to be void, voidable or unenforceable; or
- (c) An obligation the Guarantor would otherwise have under the Transaction Documents is found to be void, voidable or unenforceable.

### 3. Liability of Guarantor

The Guarantor's liability under paragraphs 2 and 3 is not affected by:

- (a) the granting of any time, forbearance or other concession by Irisgrove Pty Ltd to the Customer or any Guarantor;
- (b) any absolute or partial release of the Customer or any Guarantor or any compromise with the Customer or any Guarantor;
- (c) any variation of this Application;
- (d) the termination of this Application;
- (e) the fact that this Application is wholly or partially void, voidable or unenforceable;
- (f) non-execution of this Application by one or more of the persons names as Guarantor or the unenforceability of this guarantee or indemnity against one of the Guarantors; or
- (g) the exercise or purported exercise by Irisgrove Pty Ltd of its rights under this Application.

### 4. Guarantor Liability Regardless of Any Law

The Guarantor's liability is not discharged by any payment to Irisgrove Pty Ltd which is later avoided by law. If that happens, Irisgrove Pty Ltd the Customer and the Guarantor will be restored to their respect rights as if the payment had not been made.

### 5. Indemnity on Disclaimer

If a liquidator disclaims this Application, the Guarantor indemnifies Irisgrove Pty Ltd against any resulting loss.

### 6. Guarantor Not To Prove in Liquidation

- (a) The Guarantor must not prove or claim in any liquidation, composition, arrangement or assignment for the benefit of creditors in relation to the Customer or its related entities, until Irisgrove Pty Ltd has received all money payable to it by the Customer.
- (b) The Guarantor must hold any proof, claim or dividend received by it on trust for Irisgrove Pty Ltd.

### 7. Guarantee to Continue

If the business of Irisgrove Pty Ltd is sold, the benefit of this Guarantee and Indemnity extends to the transferee and continues concurrently for the benefit of Irisgrove Pty Ltd regardless of the transfer unless Irisgrove Pty Ltd releases the Guarantor in writing.

### 8. Application

Each Guarantor has read and understood the Transaction Documents and agrees to be bound by them.

### 9. Joint & Several Liability

The liability of each Guarantor under this Guarantee and Indemnity is joint and several, with that of the customer and each other GUARANTOR. The company may in addition to any other rights pursue the guarantors, or any one of them, regardless of any action or lack of action taken by the company against the customer or any one or more of the other guarantors.

### 10. Consent to Credit Report

Each Guarantor agrees that Irisgrove Pty Ltd may obtain from a credit reporting agency a consumer credit report containing information about the Guarantor(s) for the purpose of assessing whether to accept the Guarantor(s), or any of them, as a guarantor for credit applied for by, or provided to, the Customer. This agreement commences from the date the Guarantor signs below and continues until the credit covered by the Customer's application ceases.

### 11. Charge

Each Guarantor charges all of his/her real and personal property to Irisgrove Pty Ltd to secure the obligations of the Guarantor under this Guarantee and Indemnity.

SIGNATURE of Director / Guarantor: ..... Dated:.....

Address: ..... *Print Name*

SIGNATURE of Director / Guarantor: ..... Dated:.....

Address: ..... *Print Name*

## TERMS AND CONDITIONS OF SALE

### General

1. These conditions (which shall only be waived in writing signed by CTMS) shall prevail over all conditions of the Customer's order to the extent of any inconsistency.

### Terms of Sale

2. The goods and all other products sold or supplied by CTMS are sold on these terms and conditions.

### CTM's Quotations

3. Unless previously withdrawn, CTMS' quotations are open for acceptance within the period stated in them or, where no period is so stated, within sixty (60) days only after its date. CTMS reserves the right to refuse any order based on any quotation within seven (7) days after the receipt of the order.

### Packing

4. The cost of any special packing and packing material used in relation to the goods are at the Customer's expense notwithstanding that such costs may have been omitted from any quotation or purchase order.

### Drawings Etc

5. All specifications, drawings and particulars of weights and dimensions submitted to or by CTMS are approximate only and any deviation from any of these does not vitiate any contract with CTMS or form grounds for any claim against CTMS.
6. The descriptions, illustrations and performances contained in catalogues, pricelists and other advertising matter do not form part of the contract of sale of the goods or the description applied to the goods.
7. Where specifications, drawings or other particulars are supplied by the Customer and CTMS' price is made on estimates of quantities required, then if there are any adjustments in quantities above or below the quantities estimated by CTMS and set out in a quotation, then any such increase or decrease are to be adjusted on a unit rate basis according to unit prices set out in this document or in the quotation or purchase order.

### Delivery

8. The delivery times made known to the Customer are estimates only and CTMS is not liable for late delivery or non delivery.
9. CTMS is not liable for any loss, damage, or delay occasioned to the Customer or any of its customers arising from late or non delivery or late installation of the goods.
10. CTMS may at its option deliver the goods to the Customer in any number of instalments unless it is agreed that the Customer will not take delivery by instalments.
11. If CTMS delivers any of the goods by instalment, and any one of those instalments is defective for any reason:-
  - (a) It is not a repudiation of the contract of sale formed by these conditions; and
  - (b) The defective instalment is a severable breach that gives rise only to a claim for compensation.

### Loss or Damage in Transit

12. CTMS is not responsible to the Customer or any person claiming through the Customer for any loss or damage to goods in transit caused by any event of any kind by any person (whether or not CTMS is legally responsible for the person who caused or contributed to that loss or damage).
13. CTMS must provide the Customer with such assistance as may be necessary to press claims on carriers so long as the Customer:-
  - (a) Has notified CTMS and the carriers in writing immediately after the loss or damage is discovered on receipt of the goods; and
  - (b) Lodges a claim for compensation with the carrier within three (3) days of the date of receipt of the goods.

### Guarantee

14. CTMS' liability for goods manufactured by it is limited to making good any defects by repairing the defects or at CTMS' option by replacement, within a period not exceeding twelve (12) calendar months after the goods have been dispatched so long as:-
  - (a) Defects have arisen solely from faulty materials or workmanship;
  - (b) The goods have not received maltreatment, inattention or interference;
  - (c) Accessories of any kind used by the Customer are manufactured by or approved by CTMS;
  - (d) The seals of any kind on the goods remain unbroken; and
  - (e) The defective parts are promptly returned free of cost to CTMS.
15. If the goods are not manufactured by CTMS the guarantee of the manufacturer of those goods is accepted by the Customer and is the only guarantee given to the Customer in respect of the goods. CTMS agrees to assign to the Customer on request made by the Customer the benefit of any warranty or entitlement to the goods that the manufacturer has granted to CTMS under any contract or by implication or operation of law to the extent that the benefit of any warranty or entitlement is assignable.
16. CTMS is not liable for and the Customer releases CTMS from any claims in respect of faulty or defective design of any goods supplied unless such design has been wholly prepared by CTMS and the responsibility for any claim has been specifically accepted by CTMS in writing. In any event CTMS' liability under this clause is limited strictly to the replacement of defective parts in accordance with clause 14 of these conditions.

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17. Except as provided in these Conditions all express and implied warranties, guarantees and conditions under statute or general law as to merchantability, description, quality, suitability or fitness of the goods for any purpose or as to design, assembly, installation, materials or workmanship or otherwise are expressly excluded. CTMS is not liable for physical or financial injury, loss or damage or for consequential loss or damage of any kind arising out of the supply, layout, assembly, installation or operation of the goods or arising out of CTMS' negligence or in any way whatsoever.
18. CTMS' liability for a breach of a condition or warranty implied by Part 3-2 Division 1 of the Australian Consumer Law is limited to:-
- (a) In the case of goods, any one or more of the following:-
    - (i) The replacement of the goods or supply of equivalent goods;
    - (ii) The repair of the goods;
    - (iii) The payment of the cost of replacing the goods or of acquiring equivalent goods; and
    - (iv) The payment of the cost of having the goods repaired; or
  - (b) In the case of services:-
    - (i) The supplying of the services again; or
    - (ii) The payment of the cost of having the services supplied again.
19. CTMS' liability under Section 274 of the Australian Consumer Law is expressly limited to a liability to pay to the Purchaser an amount equal to:-
- (a) The cost of replacing the goods;
  - (b) The cost of obtaining equivalent goods; or
  - (c) The cost of having the goods repairs, whichever is the lowest amount.

## Prices

20. Unless otherwise stated all prices quoted by CTMS are net, exclusive of goods and services tax (GST).
21. Prices quoted are those ruling at the date of issue of quotation and are based on rates of freight, insurance, customs duties, exchange, shipping expenses, sorting and stacking charges, cartage, rate of water, cost of materials and other charges affecting the cost of production ruling on the date the quotation is made.
22. If CTMS makes any alterations to the price of the goods or to any of their inputs either before acceptance of or during the currency of the contract, these alterations are for the Customer's account.

## Payment

23. The purchase price in relation to goods is payable net and payment of the price of the goods plus GST must be made on or before the 14<sup>th</sup> day from the date of any Invoice.

## Rights in Relation to Goods

24. CTMS reserves the following rights in relation to the goods until all accounts owed by the Customer to CTMS are fully paid:-
- (a) Ownership of the goods;
  - (b) To enter the Customer's premises (or the premises of any associated company or agent where the goods are located) without liability for trespass or any resulting damage and retake possession of the goods; and
  - (c) To keep or resell any goods repossessed pursuant to (b) above.
25. If the goods are resold or products manufactured using the goods are sold, by the Customer, the Customer shall hold such part of the proceeds of any such sale as represents the invoice price of the goods sold or used in the manufacture of the goods sold in a separate identifiable account as the beneficial property of CTMS and shall pay such an amount to CTMS upon request.
26. Notwithstanding the provisions in clauses 24 and 25 hereof, CTMS shall be entitled to maintain an action against the Customer for the purchase price.
27. The Customer is a bailee of the goods until such time as ownership of them passes to the Customer and this bailment continues in relation to the goods until all accounts owed by the Customer to CTMS are fully paid. However the risk of the goods passes to the Customer upon the earlier of:-
- (a) Actual or constructive delivery of the goods to the Customer; or
  - (b) Collection of the goods from CTMS or any bailee or agent of CTMS by the Customer's agent, carrier or courier.

## Customer's Property

28. Any property of the Customer under CTMS' possession, custody or control is completely at the Customer's risk as regards loss or damage caused to the property or by it.

## Storage

29. CTMS reserves the right to make a reasonable charge for storage if delivery instructions are not provided by the Customer within 14 days of a request by CTMS for such instructions. The parties agree that CTMS may charge for storage from the first day after CTMS requests the Customer to provide delivery instructions.

## Return the Goods

30. CTMS is not under any duty to accept goods returned by the Customer and will do so only on terms to be agreed in writing in each individual case.

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31. If CTMS agrees to accept returned goods from the Customer under clause 30, the Customer must return the goods to CTMS at CTMS' principal place of business.

## **Goods Sold**

32. All goods are to be supplied by CTMS to the Customer as described on the purchase order agreed by CTMS and the Customer and the description on such purchase order modified or so agreed prevails over all other descriptions including any specification or enquiry of the Customer.

## **Cancellation**

33. No order may be cancelled except with consent in writing from CTMS and on terms which will indemnify CTMS against all losses.

## **Place of Contract**

34. The contract for sale of goods is made in the State of Queensland from which this document is issued.
35. The parties submit all disputes arising between them to the Courts of Queensland in any Court competent to hear appeals from those Courts in the first instance.

## **Intellectual Property**

36. The specification and design of the goods (being all intellectual property, including but not limited to, copyright, designright, trademarks or other intellectual property) remains the property of CTMS.

## **No Waiver**

37. The failure of any party to enforce any provision of these Terms and Conditions of Sale or to exercise any rights expressed herein, is not a waiver of such provision or rights and does not affect the enforcement of this Terms and Conditions.
38. No waiver under clause 37 operates as an estoppel against the party who seeks to rely on clause 37.
39. The exercises by any party of any of its rights expressed in this Agreement does not preclude or prejudice such party from exercising the same or any other rights it may have irrespective of any previous action taken by that party.

## **Force Majeure**

40. If by reason of any fact, circumstance, matter or thing beyond the reasonable control of CTMS or the Customer is either unable to perform in whole or in part any obligation under these Terms and Conditions, that party is relieved of that obligation, to the extent and for the period that it is so unable to perform and is not to be liable to the other party to this Agreement in respect of such inability.