



**TERMS AND CONDITIONS OF APPLICATION AND CREDIT FACILITY  
PROBEAM LIGHTING PTY LTD (ACN 600 014 819) (ABN 66 600 014 819)**

**Standard Terms of Application**

1. These terms apply to all transactions between Probeam Lighting Pty Ltd (“**the Company**”) and the Applicant in relation to the supply of goods on the following terms and conditions.
2. Any other documents relating to transactions occurring between the parties may include any specific terms and conditions. Any variations to these general agreed terms must be recorded and acknowledged by the other party in writing.
3. These terms and conditions constitute the entire agreement. No other representations are made by the company in relation to supply of the goods. These terms may only be varied or additional terms incorporated if in writing signed by a representative of the Company of the status of General Manager or above. There are no other terms and to the extent permitted all other terms including warranties that may be implied, including statutory terms, are excluded.
4. These terms and conditions shall be governed by and constituted in accordance with the laws of courts of competent jurisdiction and the Applicant irrevocably submits to the exclusive jurisdiction of a court in the capital city or State or Territory that the Company directs in relation to any disputes concerning such terms and conditions.
5. The Credit Facility shall remain in the name stated by the Applicant in its application until the Company is notified in writing and consent is given in the writing by the Company.
6. The Applicant agrees to observe the Company’s terms and conditions of application as the same may be varied from time to time.

**Terms and Conditions of Application and Credit Facility**

7. If the Applicant is a company, the Company will require one or more guarantors to personally guarantee the obligations of the Applicant pursuant to these terms of credit facility.

8. The Applicant, and when the Applicant is a company, the directors (jointly and severally) signing on behalf of the Applicant, represent and warrant to the Company that:
- i. All information and representations that the Applicant, or any person acting on the Applicant's behalf has given in connection with its transactions with the Company are true and correct and that the Applicant has not failed to disclose to the Company anything relevant to the Company's decision to have dealings with the Applicant and that no court proceedings or dispute is current that may have an adverse effect on performing the Applicant's obligations under this agreement;
  - ii. The Applicant is/are solvent and are not aware of any information, to do all things necessary to facilitate such registration and agrees notice or court proceedings that may lead to the bankruptcy/liquidation or the appointment of an administrator, liquidator, controller, receiver or receiver manager.
  - iii. The Applicant is able to pay its debts as they become due;
  - iv. Unless otherwise stated in this Application it is not the trustee of any trust;
  - v. There is no other material circumstances or event that is known by the Applicant which if known by the Company would be likely to affect the consideration by the Company as to whether or not to grant any credit facilities;
  - vi. The terms and conditions of application have been received and read by the Applicant and understood by the Applicant to apply to all sales between the Company and the Applicant. In particular, the Applicant is aware that the goods sold remain the property of the Company while any monies are owed by the applicant to the Company;
  - vii. The Company continue to have Retention of Title of goods and register a purchase money security interest (pursuant to the Personal Property Securities Act 2009) in relation to the goods supplied;
  - viii. Credit is required wholly or predominantly for the purpose of carrying on or establishing a trade, business or profession;
  - ix. A variation of an existing agreement, where there is a pre-existing written credit agreement, new terms and incorporated into the original agreement.
9. The Company, in the process of receiving Credit Facility application, will obtain information about the Applicant, and will retain upon approval of the Credit Facility, information about the Applicant which includes but is not limited to name, address, ABN/ACN, and contact numbers for internal marketing related purposes. The information collected will be accurate, complete and up-to-date and will be available

for review by the Applicant on demand. The Applicant's information will be destroyed or de-identified should the Applicant cease to be a customer of the Company or on request by the Applicant.

10. The Applicant agrees that trade references and other suppliers not identified in this application may be approached for information concerning the Applicant.
11. The Applicant agrees that the company may at any time withdraw or vary the Credit Facility or any credit limit in respect to the Credit Facility.
12. The observation of agreed time frames is of primary importance and the parties further agree to act promptly, efficiently and fairly in their dealings with each other.
13. Unless otherwise agreed in writing, the Applicant is required to make payment to the Company strictly **within thirty (30) days** of delivery of the goods.
14. The price will be the price current at the time of the order or supply unless agreed in writing. GST and/or any other government imposts, taxes or levies whatsoever applicable to the supply of good and/or service will be payable by the Applicant.
15. If the Applicant orders a quantity of goods that is 50 or greater, then the Applicant must make a minimum upfront payment to the Company of 30 per cent of the value of the total order immediately upon placing the order with the Company. The balance thereof is due **strictly within 30 days** of delivery of the goods.
16. By accepting payment of any sum after its due date the Company does not waive its right either to require payments as they fall due or to suspend or end its arrangements with the Applicant.
17. The Applicant agrees to pay on demand all sums owing in connection with the Credit Facility in the event that the Credit Facility is withdrawn.
18. The Applicant will be in default if the Applicant does not pay the Company when monies are due for payment or fail to comply with any other obligation under the business arrangements between the parties.

19. If the Applicant is in default under this Agreement, the Company may send the Applicant a default notice. The notice will inform the Applicant what the default is and what the Applicant is required to do in order to remedy the default. The Applicant will have 14 days from service of the notice of default to remedy the default to the satisfaction of the Company.
20. If the Applicant does not comply with the default notice the Applicant will become immediately liable to pay the Company all monies owing. In these circumstances, as title to the goods does not pass to the Applicant until the Company has been paid, the Company will have the right to repossess and sell the goods and apply the proceeds of the sale towards repayment of the monies owed by the Applicant under the agreement.
21. The Applicant also agrees to pay on default all costs and expenses incurred by the Company in exercising its rights of recovery from the Applicant, including but not limited to legal costs, if any, and indemnify the Company against any losses resulting from the default.
22. The Applicant agrees to pay interest on any unpaid amount at a rate of 1.5% per month from the due date until payment is made in full and to pay any expenses incurred in collating or attempting to collect any overdue monies including any debt collectors expenses and solicitors' fees (on a solicitor client basis), to be payable on a full indemnity basis (whether or not proceedings are successful).
23. The Applicant, or where the Applicant is a partnership, all partners, both jointly and severally, agrees that in order to secure payment of all monies for which the Applicant may become liable the Applicant charges as beneficial owner all of the Applicant's freehold and leasehold interest in land (including land acquired in the future) to the Company and consents that the Company shall have a caveatable interest over such land.
24. The Applicant acknowledges that the company may assess the Application for credit pursuant to provisions of section 18K (1) (b) of the Privacy Act 1988 (Cth).
25. Until the Applicant has paid all monies owed to the Company;

(a) the Company retains a security interest in the goods and the proceeds of sale of goods under the Personal Property Securities Act 2009 (PPSA);

(b) the Applicant consents to the Company registering a security interest under the PPSA and agrees to do all things reasonably required by the Company to effect such registration;

(c) the Applicant waives any right the Applicant has under PPSA to receive notice in relation to registration of the Company's interest in the goods under the PPSA;

(d) the Applicant will immediately advise the Company of any changes which may affect the Company's security interest.

26. The Applicant shall notify the Company in writing as soon as practicable should there be any change in the legal entity, structure or management control of the Applicant's business.

27. When a dispute arises between the parties, the Applicant agrees to comply with Company's dispute resolution process. To this end, a party with a complaint against the other is first required to notify the other of the dispute by giving written notice specifying the nature of the dispute, the outcome required and the action believed necessary under the circumstances that will assist both parties in settling the dispute.

28. Each party will then in good faith attempt to resolve the dispute by negotiation, and if the dispute in some aspect involves payment of monies, the party withholding payment is required immediately upon receipt of the notice to deposit the disputed amount into an escrow account with instructions pertaining to the release of funds. Undisputed amounts must be paid forthwith.

29. Notices must be in writing and be given personally by Express or Registered Post with delivery confirmation or by facsimile transmission or email with receipt confirmation.

30. The Company may in its absolute discretion refuse to supply goods for any reason whatsoever. Once an order has been accepted by the Company, the Applicant can only cancel, vary or suspend the order (whether wholly or partly) if the Company

agrees in writing to such cancellation, variation or suspension.

31. All principals of a company, trust or partnership are required to sign a personal guarantee.
32. All guarantors shall be jointly and severally liable for performance of all of the terms, covenants, and conditions of our agreements.
33. If a guarantor(s) signs a personal guarantee, he, she or they agree and charge with the payment of the monies guaranteed (and where the guarantee is executed by more than one guarantor, jointly and severally charge) as beneficial owner all freehold and leasehold interests in land which the guarantor(s) have or may acquire in the future.
34. The Applicant hereby charges in favour of the Company as security for the Applicant's obligations to the Company, all right title and interest in any land held now by the Applicant alone or jointly with anyone or acquired by the Applicant at any time hereafter as beneficial owners and as trustee of every trust.
35. The Applicant and the guarantor authorises (and if for than one, jointly and severally authorise) us to exchange information about the creditworthiness or either the Applicant or the guarantors with any credit reporting agency at any time during the term of the agreement.

Should you have any queries in relation to our Terms and Conditions of Application and Credit Facility, please contact our helpful sales team.

**ProBeam. See the Light.**