

CREDIT APPLICATION **30 day account**

Customer Name

Type and Name of Business ABN
.....

Street Address

Postal Address

Telephone Fax Email

Name of person/s or company owning business

Full name/s, address/es and dates of birth of sole trader or partners in business or, if a company, full names,
addresses and dates of birth of Directors

.....
.....
.....

Bank Branch

Credit Required \$ **Accounts Payable contact person**

Accounts email..... **Accounts Payable phone number**.....

Trade References

1. Company

 Contact Person Phone No.

2. Company

 Contact Person Phone No.

3. Company.....

 Contact Person Phone No.

Authorised Distributor:

- ERICO** Rail Products
- CRITEC** Surge Protection Products
- ERITECH** Lightning Protection & Grounding
- CADWELD** Welded Electrical Connections

TERMS AND CONDITIONS

WEST AUSTRALIAN POWER PROTECTION PTY LTD (WAPP)

1. **Scope:** These terms and conditions (**Conditions**) apply to all contracts for the supply of goods and services (**Products**) by WAPP despite any inconsistent terms in any purchase order or otherwise, unless a variation to these Conditions is expressly agreed to in writing by WAPP.
2. **Order Acceptance:** Written quotations by WAPP automatically expire 30 days from date of quotation. No order is binding on WAPP until accepted by WAPP. An individual contract for the supply of Products on these Conditions is formed on acceptance by WAPP of an order from the Customer. WAPP reserves the right to accept any order in whole or in part. Orders for less than a standard box or package quantities may be increased to standard quantities at WAPP's sole discretion without further notification. Where WAPP makes a part delivery of any order, such delivery will constitute a separate contract. No order may be cancelled or varied by the Customer after acceptance by WAPP.
3. **Payment Terms:** All credit orders are accepted by WAPP subject to satisfactory credit approval of the Customer, and are governed by WAPP's Conditions in force at the time of order placement. WAPP will have the right to charge interest on overdue amounts at 1.5% per month from the due date of payment to the date of receipt of payment, plus any collection, including legal, costs. Credit approval once granted may be withdrawn at any time. Where credit approval has not been granted, or is withdrawn, payment for all Products or Services supplied is required on delivery. Where credit has been granted, payment for the Products or Services is to be made within 30 days from the end of the month stated on the invoice, or 15 days from the date of a consolidated monthly statement. Payment must be made in full without set off or deduction. WAPP will investigate any disputed amounts and, if resolved in favour of the Customer, a credit will be issued to the Customer.
4. **Title to Products:** Ownership in the Products does not pass to the Customer until the Customer has discharged all outstanding indebtedness, whether in respect of the Products or otherwise, to WAPP. Risk in the Products will pass on delivery to the Customer. Delivery may not be refused by the Customer. The Customer grants to WAPP, its agents and servants, leave and licence to enter at any time on and into any premises occupied by the Customer to inspect, search for or remove any of the Products. If the Products are sold by the Customer, the Customer acknowledges that such sale is made by the Customer as bailee for and on behalf of WAPP to hold the proceeds of sale on trust for WAPP, in an account in the name of WAPP, until payment in full for the Products is made to WAPP.
5. **Tolerances, Modified or Discontinued Products:** All Product dimensions are approximate and the Customer must take into account reasonable Product tolerances. WAPP has no duty to stock or provide spare or replacement parts or Products. WAPP may modify or discontinue any Products or line of Products at any time without liability, except to refund any amounts already paid for any such discontinued Products that have been ordered but not delivered.
6. **Personal Property Securities Act 2009 (PPSA)**
 - (a) These Conditions constitute a security agreement.
 - (b) WAPP's interest in the Products supplied to the Customer, and by the Customer to any of its customers or third parties, is a security interest.
 - (c) The Customer consents to WAPP registering its security interest on the Personal Property Securities Register and agrees to provide all assistance reasonably required by WAPP to facilitate registration.
 - (d) The Customer waives any rights to receive any notice under the PPSA (including notice of verification statement) unless the notice is required by that Act and cannot be excluded.
 - (e) The Customer agrees that these Conditions and all related information and document(s) are confidential (**Confidential Information**) and will not be disclosed to unauthorised representatives or third parties, except to the extent disclosure is permitted by this agreement or required by law.
 - (f) Expressions defined in the PPSA have the same meaning when used in these Conditions.
7. **Delivery:**
 - (a) WAPP reserves the right to charge for delivery of the Products at any time, notwithstanding that it may not have previously done so. Where prices are stated as inclusive of delivery, delivery is to the delivery point specifically accepted by WAPP.
 - (b) A handling fee may be incurred on all orders.
 - (c) Delivery dates provided by WAPP are estimates only and WAPP is not liable for failure to deliver on such dates.
 - (d) In case deliveries are made in instalments, delay in delivery of one instalment will not entitle the Customer to cancel other instalments.
8. **Returns:** The Customer may return Products to WAPP and obtain a credit only for standard box or package quantities or for Products of a value of \$500 or more (except for in-warranty returns):
 - (a) except for Customer Specific Stock as referred to in clause 9;
 - (b) provided that WAPP receives a written request for a return from the Customer within 5 days of delivery and a return authorisation is obtained from WAPP;
 - (c) provided that the Products are in their original packaging, unopened, and in a saleable condition;
 - (d) at the Customer's sole expense or, if agreed by WAPP, charged to the Customer's account;
 - (e) on the basis that risk in the Products remains with the Customer until the Products are received by WAPP, and
 - (f) on the basis that a restocking or return fee of 25% of the list price for the returned Product may be charged.Notwithstanding the provisions of this clause 8, WAPP will not accept a returned Product if the Customer has caused the Product to become unmerchantable or failed to take steps to prevent the Product from becoming unmerchantable or the Product has become damaged by abnormal use whilst in the possession of the Customer.
9. **Customer Specific Stock:** Where WAPP has agreed to procure and/or warehouse and/or distribute Products specifically for the Customer (**Customer Specific Stock**), the Customer must, within 30 days of request, purchase all Customer Specific Stock then warehoused and held at the then prevailing list price. Where the Customer does not do so, WAPP may dispose of the Customer Specific Stock without liability for any loss or damage suffered by the Customer as a result. The Customer indemnifies WAPP against all claims, demands, losses, costs and expenses incurred by or made against WAPP, arising out of any actual or alleged infringement of patents, copyright, trademarks, design rights or other intellectual property rights, by any logo, design, copyright or other material that WAPP may use, print or reproduce in relation to the Customer Specific Stock at the Customer's request.
10. **Liability:** Except for those required or implied by legislation, WAPP gives no express warranty in relation to Products supplied to the Customer. The Customer acknowledges that it has not relied on any representation or warranty made by or on behalf of WAPP. Certain legislation may imply conditions and warranties into these Conditions. To the extent that such conditions and warranties may lawfully be excluded, all such conditions and warranties are expressly excluded. WAPP will not provide any greater warranty for the Products than is extended to it by its suppliers. WAPP excludes all liability except that which is directly attributable to the wilful misconduct or gross negligence of WAPP or the supplier of the Products to WAPP or their respective employees.

Authorised Distributor:

If WAPP is held liable then the liability of WAPP under or arising out of the supply of Products for breach of any term, condition or warranty implied in or imposed upon the supply of goods and/or services by legislation shall be limited, at the option of WAPP, to :

- (a) If the breach or liability relates to goods:
 - (i) the replacement of the goods or the 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; or
 - (iv) the payment of the cost of having the goods repaired;
- (b) if the breach or liability relates to services:
 - (i) the supplying of the services again; or
 - (ii) the payment of the cost of having the services supplied again.

Except to the extent the applicable law provides that liability is not able to be excluded, WAPP shall not be under any liability to the Customer in respect of any loss or damage (including consequential or indirect loss or damage or loss of profits, loss of use or loss of data) however caused, which may be suffered or incurred or which may arise directly or indirectly in respect of the Products or the failure of WAPP to comply with these Conditions. All claims must be made in writing to WAPP within 5 days of the Customer's receipt of the Products.

- 11. **Conflicts:** These Conditions will apply to the exclusion of all other terms and conditions contained in the Customer's order. In the event of any inconsistency, WAPP will be deemed, by delivering the Products to the Customer, to have made an offer to the Customer to supply the Products pursuant to these Conditions, which offer will be deemed to have been accepted if the Customer retains the Products. WAPP reserves the right to change these Conditions at any time by publishing such changes on its website without specific notification to the Customer.
- 12. **Force majeure:** If WAPP is prevented from performing its obligations by force majeure, WAPP will have the right to suspend the performance of the contract or to consider the contract terminated in whole or in part at WAPP's option, without judicial intervention and without WAPP being liable for any claims for damages or warranties. Force majeure includes any circumstance, foreseen as well as unforeseen, giving rise to delay or failure of performance by WAPP including due to strikes, riots, fire, insurrection, embargoes, failure of carriers or suppliers, inability to obtain materials or transportation facilities, acts of God or of the public enemy, governmental tariffs and quotas, compliance with any law, regulation or other governmental or court order (whether or not valid), or other causes beyond the control of WAPP, even if the cause could be alleviated by the payment of money, or the performance is prevented or delayed because of a failure on the part of WAPP.
- 13. **GST:** WAPP reserves the right to recover from the Customer all goods and services tax (**GST**) payable in respect of the supply of goods and services to the Customer.
- 14. **Jurisdiction:** These terms and conditions are governed by and will be construed in accordance with the laws of Western Australia and the parties agree to submit to the jurisdiction of the courts of that state.
- 15. **No Waiver:** The failure by WAPP to exercise, or any delay in exercising, any right, power or privilege available to it under these Conditions will not operate as a waiver thereof or preclude any other or further exercise thereof or the exercise of any other right or power.
- 16. **Assignment:** The rights and obligations of the Customer under these Conditions cannot be assigned by the Customer other than to the successors and assignees of the entire business of the Customer. On written notice to the Customer WAPP will have the right to assign and transfer all its obligations and rights under these Conditions to a third party.

This application is made by the Sole Trader/Partner/Directors referred to herein and must be signed by all such parties on behalf of the Customer. The signing parties hereby:

- 1. Personally warrant the accuracy of the information contained herein and undertake jointly and severally to indemnify WAPP against any loss or damage caused to WAPP by reason of credit having been granted on the basis of false or misleading information contained herein.
- 2. Acknowledge that WAPP's terms and conditions of trade on WAPP's website will form part of any contract between the Customer and WAPP and agree to adhere to and abide by such terms and conditions.
- 3. Acknowledge that personal guarantees may be required of the Directors of the Customer where the Customer is a company.
- 4. Accept that by WAPP supplying any Products to the Customer on credit the Customer will be deemed to have accepted this application and WAPP's Conditions without any formal communication of acceptance by the Customer to WAPP.

Signature Full Name Witness

Signature Full Name Witness

DATE

PERSONAL GUARANTEE BY DIRECTOR/S OF CUSTOMER'S OBLIGATIONS

Name of Director/s

- 1. WAPP has provided or is to provide credit facilities to the Customer at the request of the Directors named above.
- 2. The Directors jointly and severally guarantee to WAPP the due performance by the Customer to WAPP of all present and future legal and contractual obligations on the part of the Customer of whatsoever nature and howsoever arising.
- 3. This guarantee is a continuing guarantee for the purpose of securing the performance of all obligations of, and payment of all monies due by, the Customer both present and future.
- 4. The Directors may only be released from this guarantee with the written consent of WAPP.
- 5. The Directors covenant with WAPP to indemnify WAPP in respect of all and any loss caused by the failure of the Customer to comply with the obligations of the Customer to WAPP.
- 6. In the event of default on the part of the Customer WAPP shall be entitled any time thereafter to take action against any of the Directors to recover the whole or any part of monies outstanding to WAPP by the Customer irrespective of the taking or otherwise of any action against the Customer.

Authorised Distributor:

SIGNED sealed and delivered by each of the above Directors:

Name

Signature

Name

Signature

In the presence of: Name

Signature

DATE

Authorised Distributor:

ERICO Rail Products

CRITEC Surge Protection Products

ERITECH Lightning Protection & Grounding

CADWELD Welded Electrical Connections